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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

NOVOZYMES A/S,

Plaintiff

v.

GENENCOR INTERNATIONAL, INC., and  
ENZYME DEVELOPMENT CORPORATION

Defendants

C.A. No. 05-160-KAJ

**NOVOZYMES A/S' RESPONSES TO  
DEFENDANTS' FIRST REQUEST FOR ADMISSIONS (NOS. 1-26)**

Pursuant to Rule 36 of the Federal Rules of Civil Procedure, the Local Rules of the United States District Court for the District of Delaware, and the Orders of the Court, Plaintiff Novozymes A/S ("Novozymes"), by its attorneys, responds and objects to the first requests for admission (the "Requests") by defendants Genencor International, Inc. and Enzyme Development Corporation (collectively, "Defendants").

**GENERAL OBJECTIONS**

1. Novozymes objects to the definitions incorporated into the Requests from Defendants' First Set of Interrogatories and to Defendants' First Request for the Production of Documents and Things to Plaintiff Novozymes A/S as set forth in its response to those interrogatories and documents requests.

2. Novozymes objects to the Requests to the extent that they seek to impose duties over and above those required by the Federal Rules of Civil Procedure, the Local Rules of this

District, and this Court's orders. Novozymes' responses shall be made only in accordance with the applicable Rule(s).

3. Novozymes objects to the Requests to the extent that they relate to issues irrelevant to Novozymes' Motion for Leave to Amend the Complaint for the Purpose of Joining Novozymes of North America, Inc. ("NZNA") as a Co-Plaintiff.

4. Novozymes objects to the Requests to the extent they seek information protected by the attorney-client privilege, the attorney work-product privilege, or any other privilege that would protect such information from disclosure.

5. Novozymes objects to the Requests to the extent they seek proprietary and/or confidential business information, which will be produced only subject to the terms of the Protective Order.

6. The responses given herein shall not be deemed to waive any claim of privilege or immunity Novozymes may have as to any response, document or thing, or any question or right of objection as to authenticity, competency, relevancy, materiality, admissibility, or any other objection Novozymes may have as to a demand for further response to these or other Requests, or to any objection to the use of such information, documents or things in any other proceeding filed after the production of such information or documents.

7. These General Objections are applicable to and are incorporated in each specific response herein without further reference. The inclusion of specific objection(s) in response to any Requests shall not be construed as a waiver of such objection.

**REQUESTS FOR ADMISSIONS**

**REQUEST FOR ADMISSION NO. 1:**

Admit that on July 18, 2006, counsel for Novozymes A/S raised for the first time the issue of joining NZNA as a co-plaintiff.

**RESPONSE TO REQUEST NO. 1:**

Admitted.

**REQUEST FOR ADMISSION NO. 2:**

Admit that Novozymes A/S did not produce the January 1, 1996 Technology License Agreement and the January 1, 2005 Marketing Agreement to Defendants until July 19, 2006.

**RESPONSE TO REQUEST NO. 2:**

Plaintiff admits that Novozymes produced the January 1, 1996 Technology License Agreement and the January 1, 2005 Marketing Agreement to Defendants on July 19, 2006.

**REQUEST FOR ADMISSION NO. 3:**

Admit that Novozymes A/S did not produce the January 1, 2001 Framework Agreement for Services to Defendants until July 20, 2006.

**RESPONSE TO REQUEST NO. 3:**

Plaintiff admits that Novozymes produced the January 1, 2001 Framework Agreement for Services to Defendants on July 20, 2006.

**REQUEST FOR ADMISSION NO. 4:**

Admit that Novozymes A/S voluntarily structured its relationship with NZNA for business purposes.

**RESPONSE TO REQUEST NO. 4:**

Novozymes objects to the term “voluntarily structured” as vague and ambiguous. Novozymes admits that its relationship with all of its subsidiaries, NZNA included, is structured to comply with applicable laws and regulations while serving the best interests of its shareholders.

**REQUEST FOR ADMISSION NO. 5:**

Admit that the business purposes for which Novozymes A/S structured its relationship with NZNA were not specifically related to the '031 patent or practice thereof.

**RESPONSE TO REQUEST NO. 5:**

Novozymes admits that its relationship with NZNA was structured to comply with applicable laws and regulations while serving the best interests of its shareholders; otherwise denied.

**REQUEST FOR ADMISSION NO. 6:**

Admit that NZNA was not created for the purpose of manufacturing and/or selling products that practice the '031 patent.

**RESPONSE TO REQUEST NO. 6:**

Novozymes admits that NZNA was not created for the sole purpose of manufacturing and/or selling products that practice the '031 patent; otherwise denied.

**REQUEST FOR ADMISSION NO. 7:**

Admit that NZNA is separately incorporated from Novozymes A/S.

**RESPONSE TO REQUEST NO. 7:**

Novozymes objects to the term “separately incorporated” as vague and ambiguous. Novozymes admits that NZNA is a U.S. corporation and Novozymes A/S is a Danish corporation.

**REQUEST FOR ADMISSION NO. 8:**

Admit that NZNA pays its employees out of its own payroll.

**RESPONSE TO REQUEST NO. 8:**

Novozymes objects to the phrase "out of its own payroll" as vague and ambiguous. Novozymes admits that NZNA pays the majority of its employees from an NZNA bank account.

**REQUEST FOR ADMISSION NO. 9:**

Admit that NZNA pays its own state and U.S. taxes.

**RESPONSE TO REQUEST NO. 9:**

Admitted.

**REQUEST FOR ADMISSION NO. 10:**

Admit that NZNA has its own board of directors.

**RESPONSE TO REQUEST NO. 10:**

Novozymes admits that NZNA has a board of directors consisting of five members, four of whom are executive employees of Novozymes A/S.

**REQUEST FOR ADMISSION NO. 11:**

Admit that Novozymes A/S and NZNA provide services and/or technology that one entity provides to the other pursuant to contractual agreements.

**RESPONSE TO REQUEST NO. 11:**

Admitted.

**REQUEST FOR ADMISSION NO. 12:**

Admit that Novozymes A/S and NZNA charge each other expenses pursuant to contractual agreements.

**RESPONSE TO REQUEST NO. 12:**

Admitted.

**REQUEST FOR ADMISSION NO. 13:**

Admit that Novozymes A/S and NZNA purchase products from each other pursuant to contractual agreements.

**RESPONSE TO REQUEST NO. 13:**

Admitted.

**REQUEST FOR ADMISSION NO. 14:**

Admit that the '031 patent is not specifically mentioned in the January 1, 1996 Technology License Agreement.

**RESPONSE TO REQUEST NO. 14:**

Novozymes admits that the '031 patent is not specifically referenced by title or number in the January 1 1996 Technology License Agreement.

**REQUEST FOR ADMISSION NO. 15:**

Admit that the January 1, 1996 Technology License Agreement does not explicitly transfer to NZNA any proprietary rights to any Novozymes A/S patent.

**RESPONSE TO REQUEST NO. 15:**

Novozymes objects to this request as vague and ambiguous. Novozymes admits that the January 1, 1996 Technology License Agreement does not expressly refer to any specific patents by title or number. Novozymes also admits that the January 1, 1996 Technology License Agreement does not convey ownership of any patents to NZNA. Novozymes also admits that the January 1, 1996 Technology License Agreement does not expressly convey any exclusive rights to any patents to NZNA; otherwise denied.

**REQUEST FOR ADMISSION NO. 16:**

Admit that the '031 patent is not specifically mentioned in the January 1, 2001 Framework Agreement for Services.

**RESPONSE TO REQUEST NO. 16:**

Novozymes admits that the '031 patent is not specifically referenced by title or number in the January 1, 2001 Framework Agreement for Services.

**REQUEST FOR ADMISSION NO. 17:**

Admit that the January 1, 2001 Framework Agreement for Services does not explicitly transfer to NZNA any proprietary rights to any Novozymes A/S patent.

**RESPONSE TO REQUEST NO. 17:**

Novozymes objects to this request as vague and ambiguous. Novozymes admits that the January 1, 2001 Framework Agreement for Services does not expressly refer to any specific patents by title or number. Novozymes also admits that the January 1, 2001 Framework Agreement for Services does not convey ownership of any patents to NZNA. Otherwise, denied.

**REQUEST FOR ADMISSION NO. 18:**

Admit that the '031 patent is not specifically mentioned in the January 1, 2005 Marketing Agreement.

**RESPONSE TO REQUEST NO. 18:**

Novozymes admits that the '031 patent is not specifically referenced by title or number in the January 1, 2005 Marketing Agreement.

**REQUEST FOR ADMISSION NO. 19:**

Admit that January 1, 2005 Marketing Agreement does not explicitly transfer to NZNA any proprietary rights to any Novozymes A/S patent.

**RESPONSE TO REQUEST NO. 19:**

Novozymes objects to this request as vague and ambiguous. Novozymes admits that the January 1, 2005 Marketing Agreement does not expressly refer to any specific patents by title or number. Novozymes also admits that the January 1, 2005 Marketing Agreement does not convey ownership of any patents to NZNA. Otherwise, denied.



**REQUEST FOR ADMISSION NO. 20:**

Admit that Novozymes A/S does not manufacture or sell any products that practice the '031 Patent.

**RESPONSE TO REQUEST NO. 20:**

Novozymes objects to the term "practice" as vague and ambiguous. Novozymes admits that Novozymes A/S does not manufacture or sell any products that would be encompassed by any of the claims of the '031 patent.

**REQUEST FOR ADMISSION NO. 21:**

Admit that NZNA does not manufacture or sell any products that practice the '031 Patent.

**RESPONSE TO REQUEST NO. 21:**

Novozymes objects to the term "practice" as vague and ambiguous. Novozymes admits that NZNA does not manufacture or sell any products that would be encompassed by any of the claims of the '031 patent.

**REQUEST FOR ADMISSION NO. 22:**

Admit that Novozymes A/S does not itself manufacture products that compete with Spezyme<sup>®</sup> Ethyl in the United States.

**RESPONSE TO REQUEST NO. 22:**

Novozymes admits that Novozymes A/S manufactures products that compete with Spezyme<sup>®</sup> Ethyl in the United States through its United States subsidiary, NZNA; otherwise denied.

**REQUEST FOR ADMISSION NO. 23:**

Admit that Novozymes A/S does not itself sell products that compete with Spezyme<sup>®</sup> Ethyl in the United States.

**RESPONSE TO REQUEST NO. 23:**

Novozymes admits that Novozymes A/S sells products that compete with Spezyme<sup>®</sup> Ethyl in the United States through its United States subsidiary, NZNA; otherwise denied.

**REQUEST FOR ADMISSION NO. 24:**

Admit that Novozymes A/S has not licensed the '031 patent for profit.

**RESPONSE TO REQUEST NO. 24:**

Novozymes admits that Novozymes A/S has not licensed the '031 patent to any entity or individual outside of the Novozymes family of companies.

**REQUEST FOR ADMISSION NO. 25:**

Admit that NZNA is not an implied exclusive licensee of the '031 Patent.

**RESPONSE TO REQUEST NO. 25:**

Denied.

**REQUEST FOR ADMISSION NO. 26:**

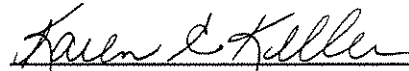
Admit that the January 1, 1996 Technology License Agreement conveys a non-exclusive, nontransferable right and license to use the Technology described in the agreement.

**RESPONSE TO REQUEST NO. 26:**

Novozymes admits that among other transfers of rights, the January 1, 1996 Technology License Agreement conveys a non-exclusive, nontransferable right and license to use the Technology described in the agreement.

**YOUNG CONAWAY STARGATT  
& TAYLOR, LLP**

Dated: September 28, 2006

  
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Attorneys for Plaintiff  
Novozymes A/S

**CERTIFICATE OF SERVICE**

I, Karen E. Keller, hereby certify that on September 28, 2006, I caused to be served a true and correct copy of the foregoing document to the following counsel of record:

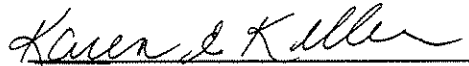
**BY ELECTRONIC MAIL AND HAND DELIVERY**

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1201 North Market Street  
PO Box 1347  
Wilmington, DE 19899-1347

**BY ELECTRONIC MAIL**

Tharan Gregory Lanier, Esquire  
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2822 Sand Hill Road, Suite 240  
Menlo Park, CA 94025

YOUNG CONAWAY STARGATT  
& TAYLOR, LLP

A handwritten signature in cursive script, reading "Karen E. Keller", is written over a horizontal line.

Karen E. Keller (No. 4489)  
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*Attorneys for Novozymes A/S*

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BENNY LOFT      October 5, 2006  
HIGHLY CONFIDENTIAL

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

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NOVOZYMES A/S,

Plaintiff,

C.A. No. 05-160-KAJ

- v -

GENENCOR INTERNATIONAL INC., and  
ENZYME DEVELOPMENT CORPORATION,  
Defendants.

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8:30 a.m.  
October 5, 2006

805 Third Avenue  
New York, New York

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DEPOSITION of BENNY LOFT, a Witness in the  
above entitled matter, taken pursuant to  
Notice, before Stephen J. Moore, a Registered  
Professional Reporter, Certified Realtime  
Reporter, and Notary Public of the State of New  
York.

BENNY LOFT    October 5, 2006  
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<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2</p> <p>3 A P P E A R A N C E S:</p> <p>4</p> <p>5 DARBY &amp; DARBY P.C.</p> <p>6 Attorneys for Plaintiff</p> <p>7 805 Third Avenue</p> <p>8 New York, New York 10022</p> <p>9</p> <p>10 BY: ROBERT C. SULLIVAN, JR., ESQ.</p> <p>11</p> <p>12 JONES DAY</p> <p>13 Attorneys for Defendants</p> <p>14 2822 Sand Hill Road, Suite 940</p> <p>15 Menlo Park, California 94025</p> <p>16</p> <p>17 BY: THARAN GREGORY LANIER, ESQ.</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 Q Do you regularly use English for</p> <p>3 business purposes both reading and writing and</p> <p>4 speaking English?</p> <p>5 A Yes.</p> <p>6 Q During the course of the day if</p> <p>7 any of my questions, sometimes I'll get rolling</p> <p>8 along or I will speak too fast, if for whatever</p> <p>9 reason you don't understand any of my</p> <p>10 questions, do you understand that you can ask</p> <p>11 me to stop, repeat, clarify my question; do you</p> <p>12 understand that?</p> <p>13 A Yes.</p> <p>14 Q I am sure you had counsel giving</p> <p>15 you some guidance about the processes and rules</p> <p>16 for depositions. Let me just remind you of a</p> <p>17 couple of the other ground rules and ask you</p> <p>18 some questions about your understanding.</p> <p>19 First, do you understand that</p> <p>20 the oath you just took is the same oath with</p> <p>21 the same force and effect as if you were</p> <p>22 testifying in court in front of a judge?</p> <p>23 A Yes.</p> <p>24 Q Do you understand that I don't</p> <p>25 want you to guess or speculate in answer to any</p>
Page 3	Page 5
<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 BENNY DALGAARD LOFT, called as</p> <p>3 a witness, having been first duly sworn by</p> <p>4 the Notary Public, was examined and</p> <p>5 testified as follows:</p> <p>6</p> <p>7 EXAMINATION BY MR. LANIER:</p> <p>8</p> <p>9 Q Good morning, sir. We met</p> <p>10 briefly before the deposition, but my name is</p> <p>11 Greg Lanier, I am one the attorneys for</p> <p>12 Genencor and EDC in this case.</p> <p>13 Would you state your full name</p> <p>14 for the record, please?</p> <p>15 A It's Benny Dalgaard Loft.</p> <p>16 Q Mr. Loft, I'm going to ask you a</p> <p>17 couple of questions that are for the record not</p> <p>18 intended to offend or anything like that, but</p> <p>19 the first is are you a native speaker of</p> <p>20 English?</p> <p>21 A No, I'm not a native speaker of</p> <p>22 English.</p> <p>23 Q Are you comfortable testifying</p> <p>24 today in English?</p> <p>25 A Yes.</p>	<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 of my questions but to give me your best answer</p> <p>3 based on your recollection as you sit here</p> <p>4 today?</p> <p>5 A Um-hum.</p> <p>6 Q That gets to our next one, do</p> <p>7 you understand that you need to give a response</p> <p>8 the reporter can transcribe, a yes or a no or</p> <p>9 other words?</p> <p>10 A Yes.</p> <p>11 Q You will forget during the day,</p> <p>12 I will remind you or your counsel will remind</p> <p>13 you, it happens all the time.</p> <p>14 We will go for a few hours</p> <p>15 today, I don't think any more than three or so</p> <p>16 we will take breaks periodically.</p> <p>17 If you need to take a break at</p> <p>18 some point, please let me know. Typically we</p> <p>19 don't take breaks between when I have asked you</p> <p>20 a question and when you have answered it, but</p> <p>21 your counsel knows the rules about when that's</p> <p>22 all permitted and we will all stay together on</p> <p>23 that.</p> <p>24 Do you understand all that?</p> <p>25 A Yes, I do.</p>

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<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 Q Is there any reason why you feel</p> <p>3 you are not able to testify competently today</p> <p>4 or you're feeling ill, you are not on</p> <p>5 medication or anything like that?</p> <p>6 A No.</p> <p>7 Q What's your current employer?</p> <p>8 A Novozymes A/S.</p> <p>9 Q What's your position?</p> <p>10 A I am Vice President of Finance</p> <p>11 and heading up IT also.</p> <p>12 Q Information Technology?</p> <p>13 A Yes.</p> <p>14 Q Thank you.</p> <p>15 How long have you been in that</p> <p>16 position?</p> <p>17 A Which one of them?</p> <p>18 Q Vice President of Finance?</p> <p>19 A I've been there for six years.</p> <p>20 Q Were you employed at Novozymes</p> <p>21 before being Vice President of Finance?</p> <p>22 A Ask again, please.</p> <p>23 Q Were you employed by Novozymes</p> <p>24 before you were Vice President of Finance?</p> <p>25 A I was employed by Novo Nordisk,</p>	<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 them to be -- I will use those terms to refer</p> <p>3 to the same entity?</p> <p>4 A I prefer if you could say</p> <p>5 Novozymes A/S and Novozymes North America.</p> <p>6 Q That's fine, I will do that</p> <p>7 then. If I forget and as a result of that if</p> <p>8 any of my questions are confusing, please tell</p> <p>9 me, I will use the full name so we are very</p> <p>10 clear on the record here.</p> <p>11 Would you describe generally</p> <p>12 what your responsibilities are in your</p> <p>13 concurrent position?</p> <p>14 A Heading up finance is, of</p> <p>15 course, heading up a lot of stuff related to</p> <p>16 finance, being tax, treasury, consolidation,</p> <p>17 but -- yeah.</p> <p>18 And within IT it's responsible</p> <p>19 for information technology at Novozymes, in</p> <p>20 both jobs it's -- I'm the manager -- I'm the</p> <p>21 leader of these two functions.</p> <p>22 Q I met a few weeks ago a fellow</p> <p>23 named Richard Olofson; do you know him?</p> <p>24 A Yes.</p> <p>25 Q Does he report to you?</p>
Page 7	Page 9
<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 which was the company which was formed into two</p> <p>3 companies, Novo Nordisk was a company which was</p> <p>4 demerged into two companies, Novozymes being</p> <p>5 one of them, and I was becoming Vice President</p> <p>6 at the demerger time six years ago.</p> <p>7 Q So you have held that Vice</p> <p>8 President of Finance position the entire time</p> <p>9 that you have been at Novozymes A/S since the</p> <p>10 demerger, correct?</p> <p>11 A That's correct.</p> <p>12 Q How long have you had the IT</p> <p>13 position?</p> <p>14 A Since May this year.</p> <p>15 Q Before the demerger what was</p> <p>16 your position with Novo Nordisk?</p> <p>17 A Director of consolidation and</p> <p>18 external reporting and production and inventory</p> <p>19 and accounting and taxes.</p> <p>20 Q I want you to spend a minute or</p> <p>21 two to get some nomenclature, some terms</p> <p>22 straight between us so we are not confused as</p> <p>23 we talk to each other today.</p> <p>24 During the course the day I may</p> <p>25 say Novozymes A/S or NZAS, do you recognize</p>	<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 A No.</p> <p>3 Q Does he report to someone that</p> <p>4 reports to you?</p> <p>5 A No.</p> <p>6 Q Does Mr. Olofson report to you</p> <p>7 indirectly?</p> <p>8 A Yes.</p> <p>9 Q How does that chain work?</p> <p>10 A It works the way that I, as I</p> <p>11 said, have a leadership responsibility, I</p> <p>12 manage people in Denmark and these people are</p> <p>13 managed in Denmark, they receive information on</p> <p>14 a monthly basis from individuals.</p> <p>15 Q So how many layers or levels of</p> <p>16 people are between you and Mr. Olofson?</p> <p>17 A Two.</p> <p>18 Q What are the positions of those</p> <p>19 names and positions, if you remember them, of</p> <p>20 the two layers of people between you and</p> <p>21 Mr. Olofson?</p> <p>22 A The position I have is Vice</p> <p>23 President and then the next lower position</p> <p>24 would be director and beneath that will be</p> <p>25 manager.</p>

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<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 Q So, who's the relevant director</p> <p>3 that's between you and Mr. Olofson?</p> <p>4 A It's the finance director of</p> <p>5 Novozymes North America.</p> <p>6 Q What's that person's name?</p> <p>7 A It's Mike Pocanan.</p> <p>8 Q Then who's the relevant manager</p> <p>9 that fits in there?</p> <p>10 A I don't understand your</p> <p>11 question.</p> <p>12 Q You had mentioned that there was</p> <p>13 a director position between you and Mr. Olofson</p> <p>14 and then a manager position between the</p> <p>15 director and Mr. Olofson; did I get that right?</p> <p>16 A I don't think so, but try again.</p> <p>17 Q Does Mr. Olofson report to that</p> <p>18 director that you just mentioned?</p> <p>19 A Yes.</p> <p>20 Q Thank you, now I've got it.</p> <p>21 Do you have any, you personally</p> <p>22 have any day-to-day responsibilities in your</p> <p>23 finance role that have anything to do</p> <p>24 specifically with Novozymes North America?</p> <p>25 A I think you have to -- I really</p>	<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 one or more entities in the United States</p> <p>3 before the demerger, correct?</p> <p>4 A I don't remember the old</p> <p>5 structure of Novo Nordisk.</p> <p>6 Q Do you remember when the entity</p> <p>7 that is currently Novozymes North America was</p> <p>8 formed?</p> <p>9 A When it was formed?</p> <p>10 Q Yes.</p> <p>11 A I don't remember exactly when.</p> <p>12 Q Was there -- the entity that is</p> <p>13 now Novozymes North America, was there a</p> <p>14 similar -- was there an entity in the Novo</p> <p>15 Nordisk structure that became Novozymes North</p> <p>16 America as part of the overall demerger</p> <p>17 process?</p> <p>18 A As far as I remember, yes.</p> <p>19 Q Were you involved in any of the</p> <p>20 decision-making about the creation and founding</p> <p>21 of that North American entity that ultimately</p> <p>22 became Novozymes North America?</p> <p>23 A I was part of the decision.</p> <p>24 Q What was the purpose for</p> <p>25 creating that entity?</p>
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<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 don't understand what you mean by direct or, if</p> <p>3 you could rephrase it a little bit.</p> <p>4 Q In doing your day-to-day job, do</p> <p>5 any of the things that you do every day relate</p> <p>6 directly to the business and financial</p> <p>7 information of Novozymes North America,</p> <p>8 specifically that entity?</p> <p>9 A No.</p> <p>10 Q Do you have an understanding of</p> <p>11 the structure by which Novozymes A/S ultimately</p> <p>12 owns Novozymes North America?</p> <p>13 A I know the structure.</p> <p>14 Q What is the structure?</p> <p>15 A Novozymes A/S owns a holding</p> <p>16 company in the U.S. which holds 100 percent</p> <p>17 shares in Novozymes North America.</p> <p>18 Q Was that structure in place,</p> <p>19 that basic structure in place before the</p> <p>20 demerger?</p> <p>21 A For good reason it couldn't be.</p> <p>22 Q What was the good reason?</p> <p>23 A Novozymes did not exist,</p> <p>24 Novozymes A/S did not exist.</p> <p>25 Q Novo Nordisk owned an entity or</p>	<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 A I don't remember.</p> <p>3 Q Do you remember when the</p> <p>4 decision was made?</p> <p>5 A You have asked me that question</p> <p>6 before, no.</p> <p>7 Q When Novozymes -- when the</p> <p>8 demerger transaction happened, was there any</p> <p>9 thought given to changing the structure, other</p> <p>10 than simply transitioning ownership to what</p> <p>11 became the Novozymes A/S entity, was there any</p> <p>12 thought to changing the structure by which the</p> <p>13 ultimate Danish parent company owned the United</p> <p>14 States entity that is now Novozymes North</p> <p>15 America?</p> <p>16 MR. SULLIVAN: Objection,</p> <p>17 foundation.</p> <p>18 A I understand why you did that.</p> <p>19 I have answered that question before. I don't</p> <p>20 remember all the details behind it.</p> <p>21 Q In your current position do you</p> <p>22 have any job responsibilities that relate</p> <p>23 specifically to the fuel ethanol industry?</p> <p>24 A Try to ask that question again,</p> <p>25 please?</p>

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<p style="text-align: right;">Page 14</p> <p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 Q Sure. Doing your job</p> <p>3 day-to-day, do any of your job day-to-day tasks</p> <p>4 involve decisions or matters specifically</p> <p>5 relating to the fuel ethanol market?</p> <p>6 A I think I need to understand</p> <p>7 what you mean by day-to-day work.</p> <p>8 Q I meant it in a very pedestrian</p> <p>9 sense, you walk into your office one morning</p> <p>10 and do the job that you do and on a regular</p> <p>11 basis there are probably tasks that you do more</p> <p>12 than once, I don't know what they are, in the</p> <p>13 ordinary course you walk into your office or do</p> <p>14 your job, do the things that you do regularly</p> <p>15 relate specifically, any of them, relate</p> <p>16 specifically to the fuel ethanol industry?</p> <p>17 A On a recurring basis, no.</p> <p>18 Q What did you mean by on a</p> <p>19 recurring basis?</p> <p>20 A Meaning that the way that I work</p> <p>21 would be that I manage other people and from</p> <p>22 time to time there could turn out to be</p> <p>23 questions in respect of the bio-enzyme</p> <p>24 business.</p> <p>25 Q Do you have any personal</p>	<p style="text-align: right;">Page 16</p> <p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 Q Do you know anything about how</p> <p>3 Novozymes North America's sales of Liquozyme</p> <p>4 have changed over time, gone up, gone down?</p> <p>5 A No.</p> <p>6 Q The answer was no?</p> <p>7 A No.</p> <p>8 Q One caution I need to give you</p> <p>9 is occasionally my questions will trail off and</p> <p>10 I will add a qualifier or another clause, so</p> <p>11 I'll need to finish my whole question, that's</p> <p>12 why I may occasionally ask you to reanswer it</p> <p>13 once I get my whole question out.</p> <p>14 By that same token, if I have</p> <p>15 interrupted any of your answers, please tell me</p> <p>16 and it's my job to make sure you get to answer</p> <p>17 the question completely; do you understand all</p> <p>18 that?</p> <p>19 A Yes.</p> <p>20 Q Thank you, sir.</p> <p>21 I am going to show you a</p> <p>22 document that has been marked as Exhibit 1 to</p> <p>23 your deposition.</p> <p>24 MR. LANIER: Rob, on a logistical</p> <p>25 note, I am just going to, for today's</p>
<p style="text-align: right;">Page 15</p> <p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 knowledge or familiarity with a competition</p> <p>3 between Novozymes North America and Genencor in</p> <p>4 the United States fuel ethanol markets?</p> <p>5 A If I -- try to ask that question</p> <p>6 again, please.</p> <p>7 Q Sure. Do you personally know</p> <p>8 anything about the competition, the competition</p> <p>9 in the day-to-day marketplace between Novozymes</p> <p>10 North America and Genencor specifically in the</p> <p>11 field of fuel ethanol, specifically in the</p> <p>12 United States?</p> <p>13 A No detailed knowledge.</p> <p>14 Q Do you know anything personally</p> <p>15 about the products that Genencor sells in that</p> <p>16 market?</p> <p>17 A No.</p> <p>18 Q Do you know anything personally</p> <p>19 about the products that Novozymes North America</p> <p>20 sells in that market?</p> <p>21 A If I know the name of the</p> <p>22 product, or what is the question?</p> <p>23 Q Beyond knowing the name of the</p> <p>24 product.</p> <p>25 A No.</p>	<p style="text-align: right;">Page 17</p> <p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 two depositions, we are going to mark</p> <p>3 them Loft 1 through whatever and Meyer 1</p> <p>4 through whatever rather than try to keep</p> <p>5 in any sequence.</p> <p>6 MR. SULLIVAN: That's fine. Let</p> <p>7 me just mention again that we would like</p> <p>8 to designate this entire transcript,</p> <p>9 including your exhibits, as</p> <p>10 confidential, highly confidential.</p> <p>11 MR. LANIER: Well, this first one</p> <p>12 hasn't been marked that, I get the</p> <p>13 general designation point and we will</p> <p>14 deal with that as we get closer to</p> <p>15 trial, which is not very far away.</p> <p>16 (The above described document was</p> <p>17 marked Loft Exhibit 1 for identification,</p> <p>18 as of this date.)</p> <p>19 Q Loft 1, let me shoot that across</p> <p>20 to you, is Novozymes A/S's responses to</p> <p>21 interrogatories, those are questions that we</p> <p>22 lawyers put to Novozymes A/S in this</p> <p>23 litigation.</p> <p>24 My first question for you, sir,</p> <p>25 is whether you recognize this document, have</p>

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<p style="text-align: right;">Page 18</p> <p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 you ever seen it before?</p> <p>3 A No.</p> <p>4 Q I'm going to draw your attention</p> <p>5 to some specific questions in this, give you</p> <p>6 the opportunity to read the question and answer</p> <p>7 first then ask you a little about them, so if</p> <p>8 you would turn first to Page 6 of the document.</p> <p>9 It's interrogatory number 29.</p> <p>10 Please read that to us, the question and the</p> <p>11 answer, please.</p> <p>12 A Hold on, I'm getting it.</p> <p>13 Q No problem.</p> <p>14 Please read number 29 to</p> <p>15 yourself, the question and the answer and tell</p> <p>16 me when you are done.</p> <p>17 A And that will be this, correct?</p> <p>18 MR. SULLIVAN: Yes.</p> <p>19 Q Yes.</p> <p>20 A Yes, I have read it, I might be</p> <p>21 asking to read it again.</p> <p>22 Q Of course, if you need to --</p> <p>23 during the course of your time together, if you</p> <p>24 need to read or reread anything I've given you</p> <p>25 so you can properly answer my questions or</p>	<p style="text-align: right;">Page 20</p> <p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 in this response, if you will turn to Page 4,</p> <p>3 there is that list of items that follow open</p> <p>4 bullet points, continues on to Page 4?</p> <p>5 A Um-hum. Yes.</p> <p>6 Q Three bullet points down there</p> <p>7 is one that says "Novozymes A/S competes in the</p> <p>8 U.S. fuel ethanol alpha amylase market by</p> <p>9 selling, inter alia, Liquozyme SC, Liquozyme</p> <p>10 DS, Liquozyme NX and Termamyl SC through its US</p> <p>11 subsidiary NZNA;" do you see it?</p> <p>12 A I see it. Does Novozymes A/S</p> <p>13 directly make sales of those products in the</p> <p>14 United States?</p> <p>15 MR. SULLIVAN: Objection to</p> <p>16 foundation.</p> <p>17 Q If you know the answer to the</p> <p>18 question you may answer it.</p> <p>19 A I would not answer.</p> <p>20 MR. SULLIVAN: I'm just objecting</p> <p>21 to the form of the question. If you</p> <p>22 understand the question, you can answer</p> <p>23 it, if you can.</p> <p>24 A But I don't know the answer to</p> <p>25 the question.</p>
<p style="text-align: right;">Page 19</p> <p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 understand them, tell us and we will let you do</p> <p>3 it.</p> <p>4 A I will do that.</p> <p>5 Q Do you note, sir, in the first</p> <p>6 paragraph of the response a reference to</p> <p>7 interrogatory number 25 and your name follows a</p> <p>8 few names after that?</p> <p>9 A Um-hum.</p> <p>10 Q Was that a yes?</p> <p>11 A What is your question?</p> <p>12 Q You need to say yes or no. Did</p> <p>13 you notice that?</p> <p>14 A To which question?</p> <p>15 Q Do you see your name there, sir?</p> <p>16 A I can see my name.</p> <p>17 Q Thank you.</p> <p>18 Let's turn to interrogatory</p> <p>19 number 25. Take a moment, read the question</p> <p>20 and answer, it starts on Page 3 and it goes to</p> <p>21 about the middle of Page 4. Please tell me</p> <p>22 when you are done.</p> <p>23 A I have read it.</p> <p>24 Q Thank you, sir. I want to ask</p> <p>25 you about a couple of specific things that are</p>	<p style="text-align: right;">Page 21</p> <p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 Q And that, to be fair, as I am</p> <p>3 sure your lawyer has told you, if your answer</p> <p>4 is that you don't know the answer then that's</p> <p>5 an answer to the question and that's fine.</p> <p>6 So I will ask you questions,</p> <p>7 your attorney may make objections during the</p> <p>8 day, if he tells you not to answer, and he will</p> <p>9 explain this to you if he needs to, then you</p> <p>10 don't need to answer. If he objects for the</p> <p>11 record, which sometimes we lawyers do, you</p> <p>12 still need to answer.</p> <p>13 If it turns out you don't know</p> <p>14 an answer, so be it, that's your answer and</p> <p>15 that's fine.</p> <p>16 So, if you don't know the answer</p> <p>17 to that question, fair enough.</p> <p>18 Let's look at the next bullet</p> <p>19 point, the fourth one down says, "As a general</p> <p>20 company policy Novozymes A/S does not license</p> <p>21 its core technology, including industrial</p> <p>22 enzymes, outside of its corporate family."</p> <p>23 Do you see that?</p> <p>24 A Yes.</p> <p>25 Q Do you know what is meant by</p>

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<p style="text-align: right;">Page 22</p> <p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 core technology?</p> <p>3 A No.</p> <p>4 Q Have you ever been involved in</p> <p>5 discussions within Novozymes about whether the</p> <p>6 patent that's at issue in this lawsuit that</p> <p>7 brings us together, the '031 patent is core</p> <p>8 technology?</p> <p>9 A Ask again, please?</p> <p>10 Q Sure. Have you ever been</p> <p>11 involved in any discussions within Novozymes</p> <p>12 about whether the patent that's involved in the</p> <p>13 lawsuit that's the reason you and I are here</p> <p>14 together today, whether that specific patent is</p> <p>15 core technology as referenced in this bullet</p> <p>16 point we just read?</p> <p>17 A I have to ask you to ask the</p> <p>18 question again, please.</p> <p>19 Q Sure.</p> <p>20 Let me break it down into some</p> <p>21 smaller parts and see if that helps us.</p> <p>22 You are aware, sir, are you not,</p> <p>23 that we are here together because of a lawsuit,</p> <p>24 is that correct?</p> <p>25 A That's correct.</p>	<p style="text-align: right;">Page 24</p> <p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 patent?</p> <p>3 A No.</p> <p>4 Q Are you, yourself, involved in</p> <p>5 any of Novozymes A/S's licensing of</p> <p>6 intellectual property, either licensing out or</p> <p>7 licensing in?</p> <p>8 A No.</p> <p>9 Can I, just to make sure that I</p> <p>10 am answering, what do you mean by involved in?</p> <p>11 Q Let me ask you about a few</p> <p>12 specific ways, you might be involved and we</p> <p>13 will find out.</p> <p>14 Do you personally ever get</p> <p>15 involved in decisions should Novozymes grant a</p> <p>16 particular license of its technology?</p> <p>17 A What do you mean by involved in?</p> <p>18 Q Be a participant in the</p> <p>19 decision-making process, be a part of a</p> <p>20 discussion, written or oral, about should we</p> <p>21 grant this particular license, for example?</p> <p>22 A If there is any economic stuff</p> <p>23 involved, I might be asked about the economic</p> <p>24 impact.</p> <p>25 Q Like how much money might we</p>
<p style="text-align: right;">Page 23</p> <p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 Q Are you aware that the lawsuit</p> <p>3 relates to Novozymes A/S asserting that</p> <p>4 Genencor and EDC infringe a patent owned by</p> <p>5 Novozymes A/S?</p> <p>6 A That's correct; I know that.</p> <p>7 Q During the course our time</p> <p>8 together I may refer to that patent by a</p> <p>9 number, the shorthand we lawyers use in this</p> <p>10 case is the '031 patent; are you familiar at</p> <p>11 all with the '031 patent itself?</p> <p>12 A No.</p> <p>13 Q Do you know anything about what</p> <p>14 technology it covers or the claims or anything</p> <p>15 like that?</p> <p>16 A No.</p> <p>17 Q Have you ever been involved in</p> <p>18 any discussions within the company about what</p> <p>19 is Novozymes A/S' core technology?</p> <p>20 A What do you mean by discussion?</p> <p>21 Q Conversation?</p> <p>22 A I would have overheard a</p> <p>23 conversation about core technology, but I don't</p> <p>24 recall it in this connection.</p> <p>25 Q In connection with the '031</p>	<p style="text-align: right;">Page 25</p> <p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 make if we got this license, is that what you</p> <p>3 mean?</p> <p>4 A Yes.</p> <p>5 Q Do you or does someone in your</p> <p>6 group keep track of the license rates that</p> <p>7 Novozymes charges when it licenses its</p> <p>8 technology?</p> <p>9 MR. SULLIVAN: Objection,</p> <p>10 foundation.</p> <p>11 A If we keep track of our</p> <p>12 licenses, yes.</p> <p>13 Q Do you, yourself, know anything</p> <p>14 about the percentage royalty rates?</p> <p>15 A No, I don't.</p> <p>16 Q Do you know whether Novozymes</p> <p>17 A/S has a policy about what percentage royalty</p> <p>18 rates it will charge, never less than this</p> <p>19 never more than this, something like that?</p> <p>20 MR. SULLIVAN: Objection to</p> <p>21 foundation.</p> <p>22 A I'm not aware of any policy.</p> <p>23 Q Other than the discussion of the</p> <p>24 potential economic consequences of granting a</p> <p>25 license, are you ever involved in other</p>

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<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 conversations or decision-making about whether</p> <p>3 to grant a license?</p> <p>4 A Please ask again.</p> <p>5 Q Sure.</p> <p>6 Occasionally there may be</p> <p>7 discussions about should we grant a license to,</p> <p>8 say, Genencor, for example, because they are a</p> <p>9 competitor of ours and how does that affect</p> <p>10 whether we want to give them a license, are you</p> <p>11 involved in discussions like that about</p> <p>12 Novozymes' licenses?</p> <p>13 A To be honest, I don't really</p> <p>14 understand your question.</p> <p>15 Q Let me try it a little</p> <p>16 differently then to make sure I am asking it</p> <p>17 properly.</p> <p>18 You are aware, sir, are you not,</p> <p>19 that over time Novozymes A/S has granted</p> <p>20 certain licenses to its technology to other</p> <p>21 companies?</p> <p>22 A Yes.</p> <p>23 Q You are generally aware of that,</p> <p>24 correct?</p> <p>25 A Yes.</p>	<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 agreements over time, what would you do?</p> <p>3 A I would go to our legal</p> <p>4 department in Kopenhagen and ask.</p> <p>5 Q Have we granted any licenses?</p> <p>6 A Yes.</p> <p>7 Q Let's look at the next bullet</p> <p>8 point, it's the fifth one down, it says, "NZNA</p> <p>9 has always been and continues to be, is the</p> <p>10 sole licensee of the '031 patent."</p> <p>11 Do you see that?</p> <p>12 A Yes.</p> <p>13 Q Do you know whether that is true</p> <p>14 or not?</p> <p>15 A No.</p> <p>16 Q The next bullet point down,</p> <p>17 "Novozymes A/S has no intent to license the</p> <p>18 '031 patent outside of its corporate family."</p> <p>19 Do you know whether that is true</p> <p>20 or not?</p> <p>21 A No.</p> <p>22 Q The next bullet point, I won't</p> <p>23 read the whole thing in there, it's the seventh</p> <p>24 one down, it refers to an implied exclusive</p> <p>25 right.</p>
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<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 Q Do you recall, putting aside the</p> <p>3 specific circumstance for a minute, do you</p> <p>4 recall ever being involved in a specific</p> <p>5 decision we should grant or not grant this</p> <p>6 particular license?</p> <p>7 A I don't recall any.</p> <p>8 Q Have you ever been involved,</p> <p>9 without telling me anything that you may recall</p> <p>10 about it first, have you ever been involved in</p> <p>11 discussions about whether to grant a license to</p> <p>12 Genencor for any particular technology?</p> <p>13 A Again, what do you mean by</p> <p>14 involved in?</p> <p>15 Q A speaking or writing</p> <p>16 participant in some sort of communication?</p> <p>17 A No.</p> <p>18 Q So, you are aware discussions</p> <p>19 may take place, but you yourself are not a</p> <p>20 participant, is that correct?</p> <p>21 A That's correct.</p> <p>22 Q If you wanted to know, if you</p> <p>23 got back to Denmark and you wanted to know the</p> <p>24 answer to what are the royalty rates that</p> <p>25 Novozymes has had in its various license</p>	<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 Do you see that?</p> <p>3 A Yes.</p> <p>4 Q Do you know what's meant by</p> <p>5 implied exclusive right there?</p> <p>6 A No.</p> <p>7 Q Further down it reads -- I will</p> <p>8 read the whole one in because I need to ask you</p> <p>9 about something later on in, "NZNA has the</p> <p>10 implied exclusive right to produce, market,</p> <p>11 sell and distribute products covered by the</p> <p>12 patent claims in Novozymes A/S' patent</p> <p>13 portfolio in order to compete in the U.S. fuel</p> <p>14 ethanol alpha amylase market."</p> <p>15 I'm asking you about the in</p> <p>16 order to compete part.</p> <p>17 Do you know anything about</p> <p>18 whether the coverage under the '031 patent is</p> <p>19 in any way necessary for NZNA to compete in the</p> <p>20 fuel ethanol amylase market?</p> <p>21 A As I stated, I have no knowledge</p> <p>22 about the '031 patent, so I would not be able</p> <p>23 to answer that question either.</p> <p>24 Q Let me backup and ask the</p> <p>25 question this way. If you wanted to know</p>

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<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 whether a particular Novozymes product, let's</p> <p>3 say the NZNA product Liquozyme was covered by a</p> <p>4 particular patent of Novozymes, say the '031</p> <p>5 patent, what would you do to find out the</p> <p>6 answer to that question?</p> <p>7 A Ask again, please.</p> <p>8 Q Sure. Referring to the patent</p> <p>9 that's at issue in this case, the '031 patent,</p> <p>10 if you, yourself, wanted to know the answer to</p> <p>11 the question, does the '031 patent cover the</p> <p>12 Liquozyme product?</p> <p>13 A Yes.</p> <p>14 Q What would you do to get that</p> <p>15 answer?</p> <p>16 A I would go to our legal</p> <p>17 department in Kopenhagen.</p> <p>18 Q Next bullet point down,</p> <p>19 "Novozymes produces, markets and sells products</p> <p>20 covered by a Novozymes A/S patent closely</p> <p>21 related to the '031 patent falling within the</p> <p>22 same family of patents as the '031 patent."</p> <p>23 Do you know what patent is</p> <p>24 referred to there?</p> <p>25 A No.</p>	<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 So in the carryover bullet</p> <p>3 points on Page 5, the second one down,</p> <p>4 "Novozymes A/S controls the profits earned and</p> <p>5 cash received by NZNA;" do you see that, sir?</p> <p>6 A Yes.</p> <p>7 Q When NZNA, Novozymes North</p> <p>8 America receives cash, does it account for it</p> <p>9 separately from cash received by other</p> <p>10 Novozymes A/S entities?</p> <p>11 A What do you mean by if Novozymes</p> <p>12 North America receives cash?</p> <p>13 Q Sure.</p> <p>14 Novozymes North America sells</p> <p>15 products, does it not?</p> <p>16 A Yes.</p> <p>17 Q So, at some point in that</p> <p>18 process hopefully Novozymes North America is</p> <p>19 paid cash, correct?</p> <p>20 A Yes.</p> <p>21 Q Other Novozymes A/S entities may</p> <p>22 also sell products and receive cash, correct?</p> <p>23 A Um-hum.</p> <p>24 Q Is that a yes?</p> <p>25 A Yes, that's a yes.</p>
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<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 Q Next bullet point down, and the</p> <p>3 last one in this section, "NZNA has an implied</p> <p>4 exclusive license to the '031 patent."</p> <p>5 Do you know what's meant by</p> <p>6 implied exclusive license?</p> <p>7 A Still no.</p> <p>8 Q Let's turn to interrogatory</p> <p>9 number 26. If you want to check, interrogatory</p> <p>10 number 29, this is one of the interrogatories</p> <p>11 where you were said to be someone who knew</p> <p>12 something about it, please read interrogatory</p> <p>13 number 26 and the response that goes over to</p> <p>14 Page 5 and tell me when you are done.</p> <p>15 A I have read it. Part of the</p> <p>16 sentence I do not understand, all the</p> <p>17 references and stuff.</p> <p>18 Q I will direct you to a few</p> <p>19 specific things, if there is something you</p> <p>20 don't understand about those, please let me</p> <p>21 know.</p> <p>22 A Yes.</p> <p>23 Q I would like to turn to Page 5</p> <p>24 again, I am going to ask you about one or two</p> <p>25 of the bullet points in the answer to this one.</p>	<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 Q When that cash is received, some</p> <p>3 cash is received by Novozymes North America,</p> <p>4 some cash is received by some other Novozymes</p> <p>5 A/S entity.</p> <p>6 Is that cash put into -- when it</p> <p>7 comes in the door is it put into the same bank</p> <p>8 account?</p> <p>9 A It's in control of Novozymes A/S</p> <p>10 and they are -- all affiliates in the group is</p> <p>11 required to put the receipts to a Novozymes A/S</p> <p>12 controlled account.</p> <p>13 Q Let me be -- I understand that,</p> <p>14 let me focus on some more specific details</p> <p>15 here.</p> <p>16 They are required to put it in a</p> <p>17 controlled account. Does each Novozymes entity</p> <p>18 have its own account or accounts that</p> <p>19 ultimately are controlled by A/S?</p> <p>20 A I say it's to a controlled</p> <p>21 account, they basically have to place the money</p> <p>22 at Novozymes A/S and then we will define what</p> <p>23 to do with the money.</p> <p>24 Q I will ask you some really</p> <p>25 granular, specific questions. Somebody in</p>

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<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 Nebraska writes a check for some Ligozyme, you</p> <p>3 write a check and they mail it to Novozymes</p> <p>4 North America to pay for this Ligozyme that</p> <p>5 they bought.</p> <p>6 What does Novozymes North</p> <p>7 America do with that check?</p> <p>8 A Put it into the bank account.</p> <p>9 Q And where is that bank account?</p> <p>10 A I don't know.</p> <p>11 Q Ultimately some or all of the</p> <p>12 cash that Novozymes North America gets is put</p> <p>13 into bank accounts controlled by Novozymes A/S,</p> <p>14 correct?</p> <p>15 A I think, just to be clear, the</p> <p>16 cash surplus that exists in North America,</p> <p>17 Novozymes North America, the cash surplus, that</p> <p>18 could consist of different bank accounts</p> <p>19 locally in North Carolina, but the cash surplus</p> <p>20 they are required to place at Novozymes A/S.</p> <p>21 Q What did you mean by cash</p> <p>22 surplus?</p> <p>23 A It means that they, of course,</p> <p>24 also have a drawing right, might be, I don't</p> <p>25 know, but it could be, so it's just in, general</p>	<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 Novozymes A/S keep track of which of its</p> <p>3 various family entities sent surplus cash and</p> <p>4 how much?</p> <p>5 MR. SULLIVAN: Objection as to</p> <p>6 form.</p> <p>7 A Well, of course we do.</p> <p>8 Q What's the purpose for doing</p> <p>9 that?</p> <p>10 A We have to.</p> <p>11 Q Why?</p> <p>12 A Because it's -- we have to be</p> <p>13 able to trace where the money is coming from.</p> <p>14 Q Why?</p> <p>15 A Because in the end it is the</p> <p>16 legal -- the legal company, Novozymes North</p> <p>17 America is the one having these -- it's their</p> <p>18 money until we decide differently.</p> <p>19 Q Who makes the decision about</p> <p>20 what to do with the surplus cash?</p> <p>21 A Novozymes A/S.</p> <p>22 Q When Novozymes A/S, or excuse</p> <p>23 me, Novozymes North America is paid let's say</p> <p>24 \$100, just take a nice round number to make it</p> <p>25 easy, \$100 U.S. for some Ligozyme, does</p>
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<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 speaking, it's you owe money, but it's do you</p> <p>3 have money in your account or don't you, on a</p> <p>4 net basis.</p> <p>5 Q So many of the expenses, the</p> <p>6 operating expenses of Novozymes North America</p> <p>7 are paid from bank accounts in the United</p> <p>8 States, correct?</p> <p>9 MR. SULLIVAN: Objection to form.</p> <p>10 A I would assume so.</p> <p>11 Q Novozymes North America</p> <p>12 employees, where do they get their paychecks?</p> <p>13 MR. SULLIVAN: Objection as to</p> <p>14 form.</p> <p>15 A What do you mean by that</p> <p>16 question?</p> <p>17 Q Novozymes North America employee</p> <p>18 gets paid a check once or twice a month, I</p> <p>19 don't know how you do it, what bank is on</p> <p>20 there, is it a bank in the United States, a</p> <p>21 bank in Denmark?</p> <p>22 A It's a bank in the United</p> <p>23 States.</p> <p>24 Q When the surplus cash that you</p> <p>25 mentioned is sent up to Novozymes A/S, does</p>	<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 Novozymes A/S automatically, immediately get</p> <p>3 \$100 U.S.?</p> <p>4 MR. SULLIVAN: Objection as to</p> <p>5 form.</p> <p>6 A I don't know.</p> <p>7 Q Before -- you mentioned surplus</p> <p>8 cash, let's -- again, let's use \$100 because</p> <p>9 it's a nice even round number, I don't know</p> <p>10 what the numbers are and I'm not telling you</p> <p>11 that's exactly any number, it's an easy</p> <p>12 example.</p> <p>13 Novozymes North America earns</p> <p>14 \$100 one year. Out of that \$100 does Novozymes</p> <p>15 North America pay taxes in the United States</p> <p>16 and potentially North Carolina and maybe the</p> <p>17 City of Franklinton?</p> <p>18 MR. SULLIVAN: Objection to the</p> <p>19 form.</p> <p>20 A They pay taxes, I don't know</p> <p>21 where they pay the taxes.</p> <p>22 Q Do they pay other operating</p> <p>23 expenses, such as employee salaries and rent</p> <p>24 and supplies and things?</p> <p>25 A I do not understand what you are</p>

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<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 getting, where you want to get at, because you</p> <p>3 were talking about they make an earning of</p> <p>4 \$100, right?</p> <p>5 Q Revenues; receive \$100 for sales</p> <p>6 of Liquozyme, so I'm sorry if I wasn't clear.</p> <p>7 So Novozymes gets \$100 of</p> <p>8 revenue, top line, are you with me so far?</p> <p>9 A Yes.</p> <p>10 Q Out of that does Novozymes A/S</p> <p>11 get \$100 of surplus cash when Novozymes North</p> <p>12 America gets \$100 of revenue?</p> <p>13 A Yes, that could be the case.</p> <p>14 Q If there were no expenses,</p> <p>15 right?</p> <p>16 A If they have the revenue of \$100</p> <p>17 and that goes directly into our books which is</p> <p>18 what we do, it will also go back to Novozymes</p> <p>19 A/S, the \$100.</p> <p>20 Q As surplus cash?</p> <p>21 A If we invoice \$100 we will</p> <p>22 receive \$100, and that amount will go directly</p> <p>23 to the cash, so that will also be directed back</p> <p>24 to Denmark, the \$100.</p> <p>25 Q Is that it, it goes directly to</p>	<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 Q Isn't it necessary for Novozymes</p> <p>3 North America to know its profits or loss so it</p> <p>4 can figure out taxes, for example?</p> <p>5 A That's why I say yeah, I think</p> <p>6 they have to.</p> <p>7 Q Interrogatory number 27 is the</p> <p>8 next one on this page, it is the remainder of</p> <p>9 Page 5. Please take a moment and read that to</p> <p>10 yourself and tell me when you are done.</p> <p>11 A Yes, I have read it.</p> <p>12 Q Thank you, sir, I'm going to ask</p> <p>13 you about something in one of the bullet points</p> <p>14 here, there is a reference in the fifth bullet</p> <p>15 point down to audited financial statements.</p> <p>16 Do you see that reference, sir?</p> <p>17 A Um-hum.</p> <p>18 Q Is that a yes?</p> <p>19 A Yes, I see it.</p> <p>20 Q Thank you.</p> <p>21 Who does -- who's the auditor</p> <p>22 for Novozymes A/S?</p> <p>23 A PricewaterhouseCoopers.</p> <p>24 Q Are the financial statements of</p> <p>25 Novozymes North America separately audited?</p>
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<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 cash, is it surplus cash?</p> <p>3 A If they are in the position</p> <p>4 where they have surplus cash and then you add</p> <p>5 \$100 we will get the additional \$100.</p> <p>6 Q And by surplus cash you are</p> <p>7 talking about cash after expenses, correct?</p> <p>8 A Yes. Yes.</p> <p>9 Q Are the profits and losses, if</p> <p>10 there are any, again I'm not assuming whether</p> <p>11 there are profits or losses, but generally,</p> <p>12 profits or losses of Novozymes North America,</p> <p>13 ever separately calculated?</p> <p>14 A Ask again please?</p> <p>15 Q Sure.</p> <p>16 Does Novozymes A/S ever, or</p> <p>17 anybody, ever calculate the profits and losses</p> <p>18 of Novozymes North America, that entity</p> <p>19 specifically?</p> <p>20 A Novozymes A/S?</p> <p>21 Q Yes.</p> <p>22 A No.</p> <p>23 Q Does Novozymes North America do</p> <p>24 that?</p> <p>25 A I would assume they have to.</p>	<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 A Yes.</p> <p>3 Q Is that also by</p> <p>4 PricewaterhouseCoopers?</p> <p>5 A Yes.</p> <p>6 Q Why are the financials of</p> <p>7 Novozymes North America separately audited?</p> <p>8 A It's required.</p> <p>9 Q What requirement are you</p> <p>10 referring to?</p> <p>11 A Novozymes being listed on the</p> <p>12 Stock Exchange in Copenhagen, we are required</p> <p>13 to follow international accounting standards,</p> <p>14 and it's required that these financial</p> <p>15 statements are audited.</p> <p>16 Q By these financial statements,</p> <p>17 are you referring to Novozymes A/S or Novozymes</p> <p>18 North America?</p> <p>19 A I'm referring to that -- both</p> <p>20 Novozymes A/S and the Novozymes group financial</p> <p>21 statements is audited.</p> <p>22 Q I need to make sure I got an</p> <p>23 answer to this very specific question, so I</p> <p>24 apologize if it feels like I have asked it to</p> <p>25 you before.</p>

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<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 A That's fine.</p> <p>3 Q Are the financial statements of</p> <p>4 Novozymes North America itself, are they</p> <p>5 separate -- are they audited specifically</p> <p>6 separately?</p> <p>7 A Yes.</p> <p>8 MR. LANIER: I am done with</p> <p>9 Exhibit number 1, you may, if you would,</p> <p>10 put it back together and hand it over to</p> <p>11 the court reporter there, I would</p> <p>12 appreciate it.</p> <p>13 Thank you, sir.</p> <p>14 Let's take a five minute break.</p> <p>15 (At this point in the proceedings</p> <p>16 there was a recess, after which the</p> <p>17 deposition continued as follows:)</p> <p>18 MR. LANIER: Let's go back on the</p> <p>19 record.</p> <p>20 Q Mr. Loft, our little chat off</p> <p>21 the record about the fact I am a philosophy</p> <p>22 major reminds me I forgot to ask you would you</p> <p>23 briefly describe your educational background,</p> <p>24 sir?</p> <p>25 A I will.</p>	<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 (The above described document was</p> <p>3 marked Loft Exhibit 2 for identification,</p> <p>4 as of this date.)</p> <p>5 Q Sir, I will show you what has</p> <p>6 been marked as Exhibit 2 to your deposition,</p> <p>7 it's a document that bears the production</p> <p>8 number NV-D 0174787, it's a document that was</p> <p>9 given to us by Novozymes' lawyers at the</p> <p>10 deposition of Mr. Olofson, actually.</p> <p>11 The first question to you, sir,</p> <p>12 is whether you recognize this?</p> <p>13 A No.</p> <p>14 Q The first line item there is</p> <p>15 royalty, do you see that line item?</p> <p>16 A Yes.</p> <p>17 Q I will represent to you that's a</p> <p>18 lawyers way of saying I will tell you and if my</p> <p>19 subsequent questions based on that</p> <p>20 representation are crazy, it's not your fault,</p> <p>21 but I will represent to you that that royalty</p> <p>22 item refers to royalty payments attributed to</p> <p>23 Novozymes North America and owing to Novozymes</p> <p>24 A/S relating to a technology license agreement.</p> <p>25 Are you familiar at all directly</p>
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<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 Q College and any subsequent</p> <p>3 degrees.</p> <p>4 A To be frank, I don't know all</p> <p>5 the English words, in Denmark we have more</p> <p>6 European thing also, I think, my title, my</p> <p>7 educational title today is state authorized</p> <p>8 public accountant.</p> <p>9 It's an education where you are</p> <p>10 trained in auditing, accounting, taxes and</p> <p>11 similar stuff, legal stuff also.</p> <p>12 It's a long education, basically</p> <p>13 the longest you can get in Denmark.</p> <p>14 Q Do you have any scientific or</p> <p>15 technical training?</p> <p>16 A Meaning what?</p> <p>17 Q As opposed to training</p> <p>18 specifically in accounting and finance and</p> <p>19 business, do you have any training, for example</p> <p>20 in genetic engineering or alpha amylases or</p> <p>21 anything like that?</p> <p>22 A No.</p> <p>23 Q I was raised, I guess I am still</p> <p>24 being raised by a certified public accountant,</p> <p>25 so I have some sense of that.</p>	<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 with royalty payments owing by Novozymes North</p> <p>3 America to Novozymes A/S?</p> <p>4 A I am aware of a technology</p> <p>5 license between Novozymes North America and</p> <p>6 Novozymes A/S.</p> <p>7 Q Are you aware specifically of</p> <p>8 the fact of royalty payments being accounted</p> <p>9 for between the companies?</p> <p>10 A What do you mean by the fact of?</p> <p>11 Q You may not know the specific</p> <p>12 number paid in a specific quarter, but are you</p> <p>13 aware that that happens?</p> <p>14 A Yes.</p> <p>15 Q Is cash always paid every</p> <p>16 quarter from Novozymes North America to</p> <p>17 Novozymes A/S as a result of that licensing</p> <p>18 agreement?</p> <p>19 A Again, the cash position, the</p> <p>20 net cash position is an important number and it</p> <p>21 really depends also about will this change, the</p> <p>22 invoice of the royalty, will that change the</p> <p>23 cash position, so it's -- I will not be able to</p> <p>24 answer your question because there are a lot of</p> <p>25 fundamentals that have to be -- I have to know</p>

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<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 before I will be able to answer.</p> <p>3 Q Bear with me a moment, I am</p> <p>4 trying to think a little to make our time more</p> <p>5 efficient so I can ask you about things you</p> <p>6 know. I will just think for a second here.</p> <p>7 Keep this document around, but I</p> <p>8 am going to jump ahead an exhibit or two to</p> <p>9 Exhibit number 4 which is the technology</p> <p>10 license agreement.</p> <p>11 (The above described document was</p> <p>12 marked Loft Exhibit 4 for identification,</p> <p>13 as of this date.)</p> <p>14 MR. LANIER: It may help us a</p> <p>15 little bit. Here is that for you, sir.</p> <p>16 For the record, it's got Bates</p> <p>17 numbers on it that have been read into the</p> <p>18 record more than once, it will end up</p> <p>19 being a trial exhibit for our purposes,</p> <p>20 it's Loft number 4.</p> <p>21 MR. SULLIVAN: Sorry, you are</p> <p>22 skipping over 3?</p> <p>23 MR. LANIER: I will get to 3</p> <p>24 eventually. I had planned to get to it</p> <p>25 later, but given his answers I figure we</p>	<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 license agreement, but I'm aware of</p> <p>3 negotiations taking place between the tax</p> <p>4 negotiations in Denmark and the U.S. that might</p> <p>5 have a direct impact on what is in here, so I</p> <p>6 might know the percentage in here, but it's</p> <p>7 because I know the other stuff.</p> <p>8 Q Understood, and I will ask you a</p> <p>9 little bit about that shortly, those tax</p> <p>10 negotiations. I'm not trying to trick you or</p> <p>11 anything else, I just asked if you knew, but</p> <p>12 let me draw your attention to the very last</p> <p>13 page of this document.</p> <p>14 A Yes.</p> <p>15 Q It's an amendment number 1 to</p> <p>16 technology license agreement, tell me when you</p> <p>17 get there, and if you see in 5A.</p> <p>18 A Yes.</p> <p>19 Q A second sentence in says, "The</p> <p>20 royalty rate shall be 40 percent of net sales,"</p> <p>21 do you see that?</p> <p>22 A Yes.</p> <p>23 Q Are you aware that that royalty</p> <p>24 rate is a changed from the royalty rate in the</p> <p>25 original agreement?</p>
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<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 might as well just jump to this now, so</p> <p>3 it has already been marked as number 4.</p> <p>4 Q So, do you recognize this</p> <p>5 technology license agreement, sir?</p> <p>6 A I don't know the detail, I know</p> <p>7 about the technology license agreement, but not</p> <p>8 all the detailed stuff which is in it.</p> <p>9 Q So, you are aware there is an</p> <p>10 agreement called a technology license agreement</p> <p>11 between Novozymes North America and Novozymes</p> <p>12 A/S, correct?</p> <p>13 A Yes.</p> <p>14 Q But you -- I take it you've</p> <p>15 never read this agreement?</p> <p>16 A I don't remember that I have</p> <p>17 read it.</p> <p>18 Q Were you involved, personally</p> <p>19 involved in negotiating the agreement at all?</p> <p>20 A No.</p> <p>21 Q Do you know what the royalty</p> <p>22 rate is currently?</p> <p>23 A I think I will -- I need you to</p> <p>24 rephrase the question. Also bear in mind that</p> <p>25 I do not know the details of this technology</p>	<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 A What is the original agreement?</p> <p>3 Q I will represent to you, sir,</p> <p>4 that there was a royalty rate of 20 percent</p> <p>5 that was changed to 40 percent.</p> <p>6 Is that something you knew? Did</p> <p>7 you know that?</p> <p>8 MR. SULLIVAN: I think he was</p> <p>9 also asking which was the original</p> <p>10 agreement.</p> <p>11 Q I'm sorry, the first several</p> <p>12 pages of this document are the original</p> <p>13 agreement, the last --</p> <p>14 A Okay.</p> <p>15 Q The last page is the amendment.</p> <p>16 I'm sorry, I misunderstood your question.</p> <p>17 Thank you, Mr. Sullivan.</p> <p>18 So the original agreement --</p> <p>19 A Is this one.</p> <p>20 Q Is the first several pages.</p> <p>21 A Okay, I thought there was also</p> <p>22 another agreement.</p> <p>23 Q No, I'm sorry, I didn't mean to</p> <p>24 mislead you. This amendment page we have just</p> <p>25 all included it together.</p>

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<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 A I do not remember the 20</p> <p>3 percent.</p> <p>4 Q Even if you don't remember that</p> <p>5 percent number, do you remember that the 40</p> <p>6 percent number was a change from some other</p> <p>7 previous number?</p> <p>8 A No.</p> <p>9 Q You mentioned that -- do you</p> <p>10 know anything about how -- seeing that 40</p> <p>11 percent number there, does that refresh your</p> <p>12 recollection, help you remember that that is</p> <p>13 the royalty rate?</p> <p>14 A If it's -- yes, if it's the same</p> <p>15 which has been agreed between authorities in</p> <p>16 U.S. and the authorities in Denmark then I do</p> <p>17 know.</p> <p>18 Q Do you know anything about how</p> <p>19 that 40 percent -- that royalty rate, whatever</p> <p>20 it is, do you know why that rate was chosen?</p> <p>21 A Yes.</p> <p>22 Q Why?</p> <p>23 A It was chosen because in Denmark</p> <p>24 we -- the production -- the Executive Vice</p> <p>25 President of Production is setting up the whole</p>	<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 we -- for some reason it's difficult to get to</p> <p>3 a level of taxes that we should pay, I will be</p> <p>4 involved.</p> <p>5 So directly I have not spoken to</p> <p>6 the authorities in the U.S., for example, but</p> <p>7 if anything turns out that we will not be able</p> <p>8 to make a fair payment of taxes in the U.S., I</p> <p>9 would have been involved.</p> <p>10 Q Who, if you know, if you don't</p> <p>11 know, you don't know, so let me ask it this</p> <p>12 way, do you know who actually sat down with or</p> <p>13 got on the telephone with the U.S. tax</p> <p>14 authorities and had the negotiation that</p> <p>15 ultimately resulted in that 40 percent?</p> <p>16 A Are you asking about one single</p> <p>17 person?</p> <p>18 Q Or a group of people.</p> <p>19 A There would be a lot of people</p> <p>20 involved in a process like this, and there is a</p> <p>21 head of tax in Denmark which would be</p> <p>22 definitely involved in this process, and there</p> <p>23 will be a person in North America also being</p> <p>24 part of this.</p> <p>25 As some kind of project legal,</p>
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<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 production process for the Novozymes group.</p> <p>3 We also have R &amp; D and the head</p> <p>4 of R &amp; D, the Executive Vice President of R &amp; D</p> <p>5 is also in Denmark and these two people are</p> <p>6 responsible for our technology, the improvement</p> <p>7 of our technology.</p> <p>8 And the reason that the 40</p> <p>9 percent is there is that Novozymes North</p> <p>10 America is using our technology and the</p> <p>11 specific number, 40 percent, is a negotiation</p> <p>12 between the Danish tax authorities and the U.S.</p> <p>13 tax authorities and they have agreed that the</p> <p>14 40 percent is a fair charge for Novozymes North</p> <p>15 America using our technology.</p> <p>16 Q Have you personally been</p> <p>17 involved in that negotiation and that agreement</p> <p>18 with the tax authorities?</p> <p>19 A There is a person involved in --</p> <p>20 I don't know exactly what you mean by the</p> <p>21 personal involved in.</p> <p>22 What I am involved in is, and</p> <p>23 have been involved in, is that we need to make</p> <p>24 sure that we are paying taxes wherever we do</p> <p>25 operations, the right level of taxes and if</p>	<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 but in the end it's the authorities which have</p> <p>3 decided on the percentage.</p> <p>4 Q You mentioned a head of tax in</p> <p>5 Denmark, who is that person?</p> <p>6 A It's -- on a daily basis its</p> <p>7 Birthe Brouer Viggaard. The overall</p> <p>8 responsibility would remain at me.</p> <p>9 Q Who is the U.S. person that was</p> <p>10 directly involved in the dealings with the</p> <p>11 authorities?</p> <p>12 A As far as I remember it was Rich</p> <p>13 Olofson.</p> <p>14 Q Let me draw your attention back</p> <p>15 to the first page of this technology license</p> <p>16 agreement.</p> <p>17 I am going to guess, I know a</p> <p>18 few of your answers, but I need to find out</p> <p>19 what you know and what you don't know that's</p> <p>20 part of this exercise here.</p> <p>21 There is a reference in 1A to</p> <p>22 the technology, Paragraph 1A and I won't read</p> <p>23 it all in there.</p> <p>24 A Yes.</p> <p>25 Q Do you personally know whether</p>

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<p style="text-align: right;">Page 54</p> <p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 or not the '031 patent that's at issue in this</p> <p>3 case is covered by the definition of technology</p> <p>4 in that section?</p> <p>5 A As I haven't read these, I would</p> <p>6 not be able to answer that question.</p> <p>7 Q Do you know anything about</p> <p>8 the -- I know you haven't read it, but from</p> <p>9 your conversations and understanding of this</p> <p>10 agreement, do you know anything about the</p> <p>11 nature of the license that is granted to</p> <p>12 Novozymes North America?</p> <p>13 Specifically whether the license</p> <p>14 is exclusive or non-exclusive?</p> <p>15 MR. SULLIVAN: Objection, it</p> <p>16 calls for a legal conclusion.</p> <p>17 Q Go ahead.</p> <p>18 A But I have to answer?</p> <p>19 MR. SULLIVAN: If you can answer,</p> <p>20 you can answer.</p> <p>21 A I haven't read the agreement, so</p> <p>22 I will not be able to make the -- what is the</p> <p>23 exclusive and non-exclusive, not even the</p> <p>24 understanding of these two different.</p> <p>25 Q Do you have -- personally do you</p>	<p style="text-align: right;">Page 56</p> <p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 Q I wasn't clear enough, which</p> <p>3 person or persons?</p> <p>4 A That, again, would be a group of</p> <p>5 persons, but in the end it would be executive</p> <p>6 management.</p> <p>7 Yeah.</p> <p>8 Q Were you part of the executive</p> <p>9 management that made that decision with respect</p> <p>10 to the specific royalty rate we are talking</p> <p>11 about here?</p> <p>12 A When I say executive management</p> <p>13 I mean what we internally define as the</p> <p>14 executive management that would be five people,</p> <p>15 I have been personally involved in making the</p> <p>16 suggestion, yes, to the executive management of</p> <p>17 going for this agreement.</p> <p>18 Q So you're not part of executive</p> <p>19 management?</p> <p>20 A No.</p> <p>21 Q As you use that term?</p> <p>22 A No.</p> <p>23 Q Which reminds me to ask you, who</p> <p>24 do you report to?</p> <p>25 A I report to the CFO in</p>
<p style="text-align: right;">Page 55</p> <p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 have any understanding about whether Novozymes</p> <p>3 A/S could choose if it wanted to to license the</p> <p>4 '031 patent to some entity other than Novozymes</p> <p>5 North America?</p> <p>6 A I have no knowledge.</p> <p>7 Q You had mentioned, you had</p> <p>8 talked about the discussions what you heard</p> <p>9 about the discussions with the tax authorities</p> <p>10 about whether it was a fair charge I think was</p> <p>11 your phrase for the use by Novozymes North</p> <p>12 America of Novozymes A/S's technology, do you</p> <p>13 recall generally that subject?</p> <p>14 A If I what?</p> <p>15 Q Do you recall generally</p> <p>16 testifying about that issue?</p> <p>17 A Yes.</p> <p>18 Q I am just reminding you of the</p> <p>19 issue to take you back there with my next</p> <p>20 couple of questions.</p> <p>21 Who made the ultimate decision</p> <p>22 within Novozymes, whatever entity of the</p> <p>23 Novozymes family that yes, we will agree with</p> <p>24 the tax authorities to that percentage rate?</p> <p>25 A Novozymes A/S.</p>	<p style="text-align: right;">Page 57</p> <p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 Novozymes.</p> <p>3 Q Is that CFO part of what you</p> <p>4 called executive management?</p> <p>5 A Yes.</p> <p>6 Q So you made a recommendation</p> <p>7 yes, we should agree to this royalty rate,</p> <p>8 correct?</p> <p>9 A That's correct.</p> <p>10 Q What was the basis for your</p> <p>11 recommendation?</p> <p>12 A It's very important for us to</p> <p>13 make sure that we pay taxes wherever we</p> <p>14 operate, the right level of taxes, and in this</p> <p>15 particular case we decided because North</p> <p>16 America is -- Novozymes North America is a big</p> <p>17 entity they would like to have certainty about</p> <p>18 taxes also, so the certainty about the tax</p> <p>19 level and also to make sure to pay the taxes,</p> <p>20 that's some of the -- as I recall it, some of</p> <p>21 the main reasons for choosing this.</p> <p>22 Q And by certainty you mean, do</p> <p>23 you not, that it's good to at least know that</p> <p>24 the government agrees with our 40 percent</p> <p>25 royalty rate, correct?</p>

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<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 A Yeah.</p> <p>3 Q Because if you didn't -- if you</p> <p>4 hadn't had that agreement with the tax</p> <p>5 authorities, then there might be uncertainty</p> <p>6 about whether the U.S. Government, for one,</p> <p>7 would agree with the transfer pricing, correct?</p> <p>8 A That's correct.</p> <p>9 Q And that would create some risk</p> <p>10 or uncertainty about your tax calculations with</p> <p>11 respect to the North American entity, is that</p> <p>12 correct?</p> <p>13 A That would create a risk when we</p> <p>14 are reporting to the stock market in Copenhagen</p> <p>15 that the taxes of Novozymes group can change.</p> <p>16 Q Do you know anything about the</p> <p>17 positions the U.S. Government took about here</p> <p>18 is why we think it should be 40 percent?</p> <p>19 A I haven't been speaking myself</p> <p>20 to the IRS, but the material that we have</p> <p>21 helped and produced in this respect was a</p> <p>22 benchmark where we compared Novozymes North</p> <p>23 America with other similar companies in the</p> <p>24 U.S. and to see what kind of -- what level of</p> <p>25 earnings these benchmark companies have.</p>	<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 Q That's what I was about to start</p> <p>3 asking you.</p> <p>4 A Okay.</p> <p>5 Q I'm told this was an effort to</p> <p>6 represent some, I don't know if it was all or</p> <p>7 not, so let me ask you a couple of questions.</p> <p>8 MR. SULLIVAN: Let me just</p> <p>9 interject one comment. As I understand</p> <p>10 it this was calculated based upon the</p> <p>11 various agreements that are identified</p> <p>12 in the left-hand side here, these</p> <p>13 categories of payments with respect to</p> <p>14 certain agreements that were discussed</p> <p>15 and this was an attempt to talk about</p> <p>16 the dollars flowing back and forth with</p> <p>17 respect to these categories that are</p> <p>18 listed here.</p> <p>19 THE WITNESS: Right.</p> <p>20 A It's not the trading part, it's</p> <p>21 not -- if Novozymes North America is buying</p> <p>22 directly goods produced in Denmark, in China,</p> <p>23 wherever we decide to produce it, I cannot see</p> <p>24 that being part of that, so --</p> <p>25 Q And I think what Mr. Sullivan</p>
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<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 And based on that, what kind of</p> <p>3 percentages do we need to make sure that we</p> <p>4 make the same earnings in Novozymes North</p> <p>5 America than peers, other companies within the</p> <p>6 U.S. make, so that's the way the 40 percent</p> <p>7 arises.</p> <p>8 Q I think I am done with number 4</p> <p>9 which is this technology license agreement, so</p> <p>10 you may toss that over to the court reporter.</p> <p>11 Let's turn back to number 2, if</p> <p>12 we could, that got us down this path.</p> <p>13 I will represent to you, sir,</p> <p>14 that one of the things we were told about this</p> <p>15 document, number 2 when it was given to us was</p> <p>16 this was an effort to represent accounting for</p> <p>17 transactions and payments owing between</p> <p>18 Novozymes North America and Novozymes A/S.</p> <p>19 You don't have to agree with</p> <p>20 these numbers or anything, I'm telling you</p> <p>21 that's what we were told about it.</p> <p>22 Do you have a question, or you</p> <p>23 understand?</p> <p>24 A You say it's covering all</p> <p>25 transactions?</p>	<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 said is consistent with what I remember, and</p> <p>3 what you just said is consistent with what I</p> <p>4 remember, so let me just ask you a couple of</p> <p>5 questions to follow-up to make sure I</p> <p>6 understand it completely.</p> <p>7 So, for example, Novozymes North</p> <p>8 America sells products in the United States</p> <p>9 that may be manufactured by some other</p> <p>10 Novozymes entity outside of the United States,</p> <p>11 correct?</p> <p>12 A That can easily happen.</p> <p>13 Q In those cases the sales,</p> <p>14 Novozymes North America technically buys those</p> <p>15 products from some other Novozymes entity,</p> <p>16 correct?</p> <p>17 A Yes.</p> <p>18 Q And it's treated as a purchase</p> <p>19 by one entity and a sale by the other, correct?</p> <p>20 A That's correct.</p> <p>21 Q This chart number, it doesn't</p> <p>22 show that activity, does it, I'm not</p> <p>23 criticizing the chart, I'm just making sure we</p> <p>24 understand it doesn't show that, correct?</p> <p>25 A I cannot see that.</p>

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<p style="text-align: right;">Page 62</p> <p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 Q Is it possible if you walked</p> <p>3 back into your office and could get your staff</p> <p>4 working on it right away, is it possible to</p> <p>5 say, to get a report that says I want to see</p> <p>6 all the transactions between Novozymes North</p> <p>7 America and Novozymes A/S, for example?</p> <p>8 A It is possible to see.</p> <p>9 Q For 2005, could you generate a</p> <p>10 report like that?</p> <p>11 A When you say generate a report,</p> <p>12 what do you mean, all transactions or what?</p> <p>13 Q Or a top line summary of</p> <p>14 transactions, will you let me -- you shouldn't</p> <p>15 have to guess at what I want, so let me try to</p> <p>16 ask you some more specific questions.</p> <p>17 If you wanted to know all</p> <p>18 purchases and sales, for example, between</p> <p>19 Novozymes North America and Novozymes A/S,</p> <p>20 either direction, could you get that</p> <p>21 information in your office?</p> <p>22 A It's a legal requirement that we</p> <p>23 are able to trace all transactions so yes.</p> <p>24 Q Is a report of those</p> <p>25 transactions regularly generated?</p>	<p style="text-align: right;">Page 64</p> <p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 A I know there is an agreement,</p> <p>3 but I haven't seen it.</p> <p>4 Q Is there someone in your</p> <p>5 organization who's responsible for keeping</p> <p>6 track of performance of service agreements like</p> <p>7 that, is each party to that agreement doing the</p> <p>8 jobs and appropriately paying or charging for</p> <p>9 services provided?</p> <p>10 A There are several people, both</p> <p>11 in Novozymes A/S and in the affiliates which is</p> <p>12 responsible for making sure that we are in</p> <p>13 compliance with the legal documents that we</p> <p>14 have agreed upon.</p> <p>15 Q Who is the person that would be</p> <p>16 responsible within Novozymes North America for</p> <p>17 that compliance?</p> <p>18 A It would not be one person, it</p> <p>19 would be more than one person.</p> <p>20 Q Who's the senior-most or person</p> <p>21 in charge of that group of people at Novozymes</p> <p>22 North America?</p> <p>23 A It could easily be two kinds,</p> <p>24 two persons, just to explain there will be a</p> <p>25 person responsible for taxes and she'll monitor</p>
<p style="text-align: right;">Page 63</p> <p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 Like every month, every quarter,</p> <p>3 every year there is a report, here is the</p> <p>4 transaction report?</p> <p>5 A I'm not aware of that kind of</p> <p>6 report.</p> <p>7 Q Are you aware of which Novozymes</p> <p>8 entity is paying the legal fees in connection</p> <p>9 with this case, the one that brings us, you and</p> <p>10 I here together today?</p> <p>11 A I'm aware that we do have</p> <p>12 service agreements between Novozymes A/S and</p> <p>13 different affiliates, and if they perform work</p> <p>14 for Novozymes A/S, which I would assume this</p> <p>15 is, I would also assume that we are paying for</p> <p>16 these services.</p> <p>17 Q Do you know anything about the</p> <p>18 specific service agreement that may apply to</p> <p>19 this situation?</p> <p>20 A I would not -- if you show it to</p> <p>21 me, I will not be able to say this is the</p> <p>22 agreement.</p> <p>23 Q So, you assume or believe there</p> <p>24 is some agreement, but you couldn't pick it out</p> <p>25 of a lineup?</p>	<p style="text-align: right;">Page 65</p> <p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 most of these agreements, but all the more</p> <p>3 bookkeeping part and trying to trace cost and</p> <p>4 so forth, that will be a different person.</p> <p>5 Q What are the names of those</p> <p>6 people at Novozymes North America today, if you</p> <p>7 know?</p> <p>8 A I don't know.</p> <p>9 MR. LANIER: I am done with</p> <p>10 number 2, you can give that back to the</p> <p>11 court reporter.</p> <p>12 Q I am going to jump to number 5</p> <p>13 real, quickly and I think I know the answer to</p> <p>14 some of these questions, but I have to ask you</p> <p>15 anyway.</p> <p>16 This is called framework</p> <p>17 agreement for services, it's Loft Exhibit</p> <p>18 number 5.</p> <p>19 (The above described document was</p> <p>20 marked Loft Exhibit 5 for identification,</p> <p>21 as of this date.)</p> <p>22 Q I will represent, I will tell</p> <p>23 you this is a document that was given to us by</p> <p>24 Novozymes' lawyers out of the files of</p> <p>25 Novozymes and it was represented to be service</p>

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Page 66	<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 agreement that potentially is relevant to this</p> <p>3 case.</p> <p>4 Do you recognize this agreement</p> <p>5 at all, specifically this agreement?</p> <p>6 A No.</p> <p>7 Q If you were to read it, would</p> <p>8 you able to tell me, to confirm or deny for</p> <p>9 sure that this is the agreement that relates to</p> <p>10 the circumstances of this case?</p> <p>11 A Not having read it, it will be</p> <p>12 quite difficult for me to answer your question.</p> <p>13 Q I will represent to you, sir,</p> <p>14 that there has been testimony in this case that</p> <p>15 this is, in fact, the service agreement that</p> <p>16 relates in part to patent -- this litigation</p> <p>17 that brings us together.</p> <p>18 A Yes.</p> <p>19 Q Do you have any reason to doubt</p> <p>20 that?</p> <p>21 A No.</p> <p>22 Q Were you involved in the</p> <p>23 negotiation of this specific agreement?</p> <p>24 A No.</p> <p>25 Q Do you know who did negotiate</p>	Page 68	<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 companies is on an arms length basis, and arms</p> <p>3 length being you could have done the same deal</p> <p>4 with a third-party.</p> <p>5 Q Is that for tax purposes?</p> <p>6 A Yeah, that's for tax purposes.</p> <p>7 Q Thank you.</p> <p>8 A I would correct it a little bit,</p> <p>9 I would say mainly for tax purposes, there</p> <p>10 would be other, I would not be able to tell if</p> <p>11 there are other reasons as well.</p> <p>12 Q You are aware of tax purposes,</p> <p>13 there might be others?</p> <p>14 A Yes.</p> <p>15 Q Thank you. I won't bother you</p> <p>16 more about this one, I have asked other people</p> <p>17 questions about it, so I won't bug you.</p> <p>18 MR. LANIER: We are going to get</p> <p>19 back to Loft Exhibit 3 at some time, I</p> <p>20 promise, Mr. Sullivan.</p> <p>21 MR. SULLIVAN: I can hardly wait.</p> <p>22 Q Let's go to Loft Exhibit number</p> <p>23 6. I promise you I will not ask you about all</p> <p>24 the pages in here, it's a thick document.</p> <p>25 This is -- it's also -- for the</p>
Page 67	<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 it?</p> <p>3 A I don't know as a fact who was</p> <p>4 participating in the negotiation.</p> <p>5 Q Given the time frame, it's dated</p> <p>6 January 1, 2001, it's between Novozymes A/S and</p> <p>7 Novozymes North America.</p> <p>8 Do you have any belief about who</p> <p>9 it was likely was involved in that negotiation,</p> <p>10 if anyone?</p> <p>11 A Again, depending on what's in</p> <p>12 here, if it's also to adjust and make sure that</p> <p>13 we are on an arms length basis between</p> <p>14 companies in the group, I would assume that our</p> <p>15 Tax Department in Denmark would have been part</p> <p>16 of this.</p> <p>17 I would also, of course, assume</p> <p>18 that the legal department would be part of this</p> <p>19 agreement as well.</p> <p>20 Q You used the phrase arms length,</p> <p>21 what did you mean by that?</p> <p>22 A That's a general term used where</p> <p>23 you basically try to make sure that whatever</p> <p>24 you do in the Novozymes group, that we aim at</p> <p>25 making sure that all transactions between group</p>	Page 69	<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 record I will note it's been Defendant's trial</p> <p>3 Exhibit 740, you don't need to worry about</p> <p>4 that, Mr. Loft, that's more for the record.</p> <p>5 This is, as you will see on the</p> <p>6 reference in the cover page, it's an advance</p> <p>7 pricing agreement, the cover of this document</p> <p>8 bears the date of August 29, 2003.</p> <p>9 I am not going to ask you too</p> <p>10 much about specific pieces. If you need to</p> <p>11 skim through this to answer my question please</p> <p>12 let me know, but do you recognize this?</p> <p>13 A I am aware that we have an</p> <p>14 advance pricing agreement.</p> <p>15 Q You and I had talked earlier in</p> <p>16 the day about an agreement with the tax</p> <p>17 authorities.</p> <p>18 A Yes.</p> <p>19 Q Is that the advance pricing</p> <p>20 agreement to which you are referring?</p> <p>21 A Yes.</p> <p>22 Q Have you ever read the advance</p> <p>23 pricing agreement?</p> <p>24 A I don't remember.</p> <p>25 Q Take a minute. I'm not asking</p>

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<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 you to read the whole thing, but glance through</p> <p>3 the first few pages and tell me if that</p> <p>4 refreshes your recollection about whether</p> <p>5 you've ever read it before or not?</p> <p>6 A I will not be able to remember</p> <p>7 the detailed content of this, so I don't need</p> <p>8 to.</p> <p>9 Q All right, very well.</p> <p>10 MR. SULLIVAN: I'm sorry, just so</p> <p>11 we are clear, you may have said this</p> <p>12 already, is this a partial copy of the</p> <p>13 entire agreement, perhaps excluding some</p> <p>14 of the exhibits?</p> <p>15 MR. LANIER: It's got exhibits</p> <p>16 and things like this. This was given to</p> <p>17 us in response to our request for the</p> <p>18 advance pricing agreement.</p> <p>19 This is the document that was</p> <p>20 provided to us as it was provided to us.</p> <p>21 MR. SULLIVAN: Okay.</p> <p>22 Beyond that I can say no more, but</p> <p>23 I can only say what we were told.</p> <p>24 Q Are you aware of whether there</p> <p>25 are negotiations going on now concerning the</p>	<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 tax authorities?</p> <p>3 A No conclusion.</p> <p>4 Q Is there a time frame by which</p> <p>5 this advance -- this new advance pricing</p> <p>6 agreement is expected to be concluded?</p> <p>7 A No.</p> <p>8 Q Is there any deadline?</p> <p>9 A Not as far as I know.</p> <p>10 Q Understood, sir. Thank you for</p> <p>11 clarifying that.</p> <p>12 Is there any deadline by which</p> <p>13 it must be concluded?</p> <p>14 A I don't remember.</p> <p>15 Q Is the agreement that's in front</p> <p>16 of us here the one that has the date on the</p> <p>17 cover August 29, 2003, is it still in effect?</p> <p>18 A No.</p> <p>19 Q When did it expire?</p> <p>20 A As far as I remember, end of</p> <p>21 2004.</p> <p>22 Q Have there been any other</p> <p>23 advance pricing agreements between the expiry</p> <p>24 at the end of 2004 and the current date?</p> <p>25 A What do you mean?</p>
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<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 terms of the -- concerning a new advance</p> <p>3 pricing agreement?</p> <p>4 A Yeah, we have in -- Novozymes</p> <p>5 have decided to pursue a new advance pricing</p> <p>6 agreement.</p> <p>7 Q Will that new advance pricing</p> <p>8 agreement potentially involve a change to the</p> <p>9 royalty rate under the technology license</p> <p>10 agreement we have discussed?</p> <p>11 A If it turns out that the profit</p> <p>12 in Novozymes North America is increasing, and</p> <p>13 is going beyond the benchmark companies that we</p> <p>14 were including in our analysis, then it</p> <p>15 certainly is our expectation that the</p> <p>16 percentage has to be looked at again.</p> <p>17 Q In that scenario, if the profit</p> <p>18 of Novozymes North America is increasing</p> <p>19 relative to the benchmark companies, what</p> <p>20 Novozymes A/S would want to do is increase the</p> <p>21 royalty rate, is that correct?</p> <p>22 A That's correct.</p> <p>23 Q Has any conclusion been reached</p> <p>24 within Novozymes North America as to what new</p> <p>25 royalty rate, if any, to propose to the U.S.</p>	<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 Q If the agreement expired at the</p> <p>3 end of 2004, there are negotiations going on</p> <p>4 now or consideration going on now toward a new</p> <p>5 one, in the interim have there been any other</p> <p>6 agreements that have also expired?</p> <p>7 A I don't know.</p> <p>8 Q Occasionally I will drift off in</p> <p>9 thought like this, but in the end trust me,</p> <p>10 it's intended to make our time together more</p> <p>11 efficient, so bear with me.</p> <p>12 Would you turn, sir, I know you</p> <p>13 said you haven't read this before, I'm going to</p> <p>14 draw your attention --</p> <p>15 A That I didn't say, I said I</p> <p>16 didn't remember.</p> <p>17 Q Thank you for clarifying. I</p> <p>18 didn't mean to misrepresent what you said. I</p> <p>19 want to draw your attention to a couple of</p> <p>20 specific things to see whether that refreshes</p> <p>21 your recollection about anything, and it may</p> <p>22 help me ask some questions.</p> <p>23 So, turn to Page -- it's the</p> <p>24 fourth page of the document, it's Page 2 of the</p> <p>25 actual advance pricing agreement on the bottom</p>

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<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 it bears production number NV-D-0 --</p> <p>3 A Is that the.</p> <p>4 Q It bears this production number</p> <p>5 right here and for the record I will say it is</p> <p>6 NV-D-0174801.</p> <p>7 Are you on this page, sir?</p> <p>8 A Yes.</p> <p>9 Q Section 5D says that, "The IRS</p> <p>10 will determine whether taxpayer has complied</p> <p>11 with this APA based on," and it goes on to say</p> <p>12 things, do you see that?</p> <p>13 Section 5D, it's at the very</p> <p>14 bottom of the page?</p> <p>15 A Yes. I see that.</p> <p>16 Q Do you know whether the IRS has</p> <p>17 communicated to any Novozymes entity any</p> <p>18 conclusion it's reached about compliance with</p> <p>19 the APA?</p> <p>20 A I have not heard that we should</p> <p>21 not be in compliance.</p> <p>22 Q You see a reference there to</p> <p>23 taxpayer in that same paragraph?</p> <p>24 A Yes.</p> <p>25 Q What's your understanding of who</p>	<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 in profit, I'm not representing that's actually</p> <p>3 the number, let's say for 2005 Novozymes North</p> <p>4 America made \$100 of profit before taxes.</p> <p>5 You have heard the phrase</p> <p>6 EBITDA, in fact let's focus on that.</p> <p>7 Do you know what I mean by that,</p> <p>8 EBITDA, earnings before depreciation, interest</p> <p>9 and taxes?</p> <p>10 A Yes, but it -- yes, the two</p> <p>11 phrases you are using is not the same, but --</p> <p>12 Q I understand. So let's focus on</p> <p>13 the second one.</p> <p>14 Novozymes has \$100 EBITDA. Does</p> <p>15 Novozymes A/S get all of that \$100 as net</p> <p>16 profit at the end of the year on the</p> <p>17 consolidated return?</p> <p>18 A You need to be more precise.</p> <p>19 If this is some kind of a local</p> <p>20 produced EBDA or it's the group reporting.</p> <p>21 Q Novozymes North America has to</p> <p>22 come to some conclusion about its profits or</p> <p>23 losses in order to calculate U.S. taxes that</p> <p>24 must be paid, correct?</p> <p>25 A Yes.</p>
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<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 is the taxpayer under this agreement?</p> <p>3 A I would think it's Novozymes</p> <p>4 North America.</p> <p>5 Q What's your understanding, if</p> <p>6 any, of the consequences if the IRS were to</p> <p>7 determine that there has not been compliance</p> <p>8 with this agreement?</p> <p>9 A The consequences?</p> <p>10 Q Yes.</p> <p>11 A That our tax payment according</p> <p>12 to IRS should be changed, or potentially could</p> <p>13 be changed.</p> <p>14 Q Does every dollar of profit made</p> <p>15 by Novozymes North America turn into a dollar</p> <p>16 of profit for Novozymes A/S?</p> <p>17 MR. SULLIVAN: Objection as to</p> <p>18 form.</p> <p>19 A Yes.</p> <p>20 Q Is that pretax or post tax?</p> <p>21 A Both.</p> <p>22 Q So, every dollar -- let me break</p> <p>23 it down then.</p> <p>24 Novozymes North America, let's</p> <p>25 say it's made, and taking an easy number, \$100</p>	<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 Q So Novozymes North America comes</p> <p>3 to a conclusion, again, let's take my made up</p> <p>4 number, \$100, we have made \$100, based on that</p> <p>5 we now can figure out how much taxes need to be</p> <p>6 paid; is that how it works?</p> <p>7 A If it's an EBIT, after financial</p> <p>8 items then after that you have to decide what</p> <p>9 kind of taxes you have to pay, yes.</p> <p>10 Q So there is an amount of profit</p> <p>11 that exists that are calculated before the</p> <p>12 payment of taxes, correct?</p> <p>13 A Yes.</p> <p>14 Q And then after the payment of</p> <p>15 taxes there is a different amount of profit</p> <p>16 that remains, correct?</p> <p>17 A I think you have -- I need you</p> <p>18 to ask the questions again so I understand</p> <p>19 really which kind of numbers you are alluding</p> <p>20 to.</p> <p>21 Q You used the phrase EBIT, let's</p> <p>22 talk about that.</p> <p>23 A Yes.</p> <p>24 Q Novozymes North America</p> <p>25 calculates EBIT, right, earnings before</p>

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<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 interest and taxes, right?</p> <p>3 A Yes.</p> <p>4 Q Let's say it's \$100?</p> <p>5 A Yes.</p> <p>6 Q Out of that \$100, some amount is</p> <p>7 then taken out in order to pay taxes, correct?</p> <p>8 A If the EBIT is for tax purposes,</p> <p>9 if that phrase exists for tax purposes, yes.</p> <p>10 Q Novozymes A/S, the way you</p> <p>11 described it earlier, gets the cash that's left</p> <p>12 over after the payment of taxes, correct?</p> <p>13 A That's correct.</p> <p>14 Q Thank you for bearing with me on</p> <p>15 that, I don't have your background in these</p> <p>16 things, but I think I've got it.</p> <p>17 I think for the moment I am done</p> <p>18 with number 6, the APA, I may toward the end of</p> <p>19 our very last break come back and ask you some</p> <p>20 questions about it, but I will throw it away</p> <p>21 for now.</p> <p>22 Give it to the court reporter.</p> <p>23 Now, Mr. Sullivan has been</p> <p>24 waiting for me to get to Exhibit number 3.</p> <p>25 A All right.</p>	<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 If you need to read any other</p> <p>3 part of this agreement to answer my questions</p> <p>4 you will let me know.</p> <p>5 Please turn to Page 4 of the</p> <p>6 document, request for admission number 7 and</p> <p>7 the response, read that to yourself, tell me</p> <p>8 when you are done.</p> <p>9 A I have read it, I just want to</p> <p>10 make sure that I understand the word ambiguous,</p> <p>11 I understand the word vague, is that just</p> <p>12 another way of saying it?</p> <p>13 Q Well, very strictly speaking</p> <p>14 vague means that you don't know the meaning of</p> <p>15 the term, the meaning is uncertain, and</p> <p>16 ambiguous means that a term could have two or</p> <p>17 more meanings.</p> <p>18 We lawyers tend to lump them</p> <p>19 together, but we philosophy majors know they</p> <p>20 have different meanings.</p> <p>21 A So I read it, I'm not sure I</p> <p>22 totally understand what it says.</p> <p>23 Q I want to ask you about this,</p> <p>24 the lawyers, we ask our questions, the lawyers</p> <p>25 make certain objections back, I'm going to ask</p>
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<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 (The above described document was</p> <p>3 marked Loft Exhibit 3 for identification,</p> <p>4 as of this date.)</p> <p>5 Q I guess I know the answer to</p> <p>6 this question, do you recognize this document,</p> <p>7 sir?</p> <p>8 A No. Have I seen that before?</p> <p>9 It's not the same?</p> <p>10 Q It is not the same.</p> <p>11 A I just saw -- the heading seems</p> <p>12 to be the same on these.</p> <p>13 Q You've correctly noted it's a</p> <p>14 similar looking document.</p> <p>15 A I just want to make sure that</p> <p>16 it's not the same.</p> <p>17 Q For our record these are</p> <p>18 responses to requests for admissions. These</p> <p>19 are I will tell you these are a different way</p> <p>20 of asking questions to Novozymes and these are</p> <p>21 the answers to those questions.</p> <p>22 A Yes.</p> <p>23 Q I am going to ask you about a</p> <p>24 couple of specific things in here, I will draw</p> <p>25 your attention to them specifically.</p>	<p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 you about the last sentence of the response.</p> <p>3 It says, "Novozymes admits that</p> <p>4 NZNA is a U.S. corporation and Novozymes A/S is</p> <p>5 a Danish corporation."</p> <p>6 Do you see that?</p> <p>7 A Yes.</p> <p>8 Q The formal legal act of</p> <p>9 incorporating Novozymes North America, that's a</p> <p>10 different set of formal legal acts than that</p> <p>11 which resulted in the incorporation of</p> <p>12 Novozymes A/S, correct?</p> <p>13 A I would assume so.</p> <p>14 Q Your understanding is -- is it</p> <p>15 your understanding that, in fact, Novozymes</p> <p>16 North America is a corporation that while it</p> <p>17 may be related to Novozymes A/S, is a different</p> <p>18 corporation than Novozymes A/S, is that</p> <p>19 correct?</p> <p>20 A The word related, we own them</p> <p>21 100 percent, so that's the relationship.</p> <p>22 Q I understand, I'm not trying to</p> <p>23 change that, is Novozymes A/S a different</p> <p>24 corporation than Novozymes North America?</p> <p>25 A It is.</p>

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<p style="text-align: right;">Page 82</p> <p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 Q Would you read to yourself, turn</p> <p>3 back to the document, request for admission</p> <p>4 number 8 starts at the bottom of Page 4 and it</p> <p>5 goes to the top of Page 5 the answer, please</p> <p>6 read that and tell me when you are done.</p> <p>7 A Yes.</p> <p>8 Q Again, I am going to ask you</p> <p>9 about the second sentence and the response, it</p> <p>10 says, "Novozymes admits that NZNA," that's</p> <p>11 Novozymes North America, "pays the majority of</p> <p>12 its employees from an NZNA bank account."</p> <p>13 Do you see that sentence, sir?</p> <p>14 A Um-hum.</p> <p>15 Q Is that a yes?</p> <p>16 A Yes, I see it.</p> <p>17 Q Do you know whether there are</p> <p>18 Novozymes North America employees that are paid</p> <p>19 other than from Novozymes North America bank</p> <p>20 accounts?</p> <p>21 A I don't know.</p> <p>22 Q Is there any reason why</p> <p>23 Novozymes North America employees would be paid</p> <p>24 by some other way than from a Novozymes North</p> <p>25 America bank account?</p>	<p style="text-align: right;">Page 84</p> <p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 my notes, we will think about it I will</p> <p>3 walk down the hall, we will come back</p> <p>4 and get you out of here.</p> <p>5 (At this point in the proceedings</p> <p>6 there was a recess, after which the</p> <p>7 deposition continued as follows:)</p> <p>8 MR. LANIER: Let's go back on the</p> <p>9 record.</p> <p>10 Q Mr. Loft, would you get back</p> <p>11 Exhibit number 1, it is the interrogatory</p> <p>12 responses, I think it's the one that's closes</p> <p>13 to me there.</p> <p>14 I am going to draw your</p> <p>15 attention to one of the bullet points that's in</p> <p>16 the response to number 26, specifically on Page</p> <p>17 5, top of the page.</p> <p>18 Second bullet point at the top</p> <p>19 of the page says Novozymes A/S controls the</p> <p>20 profits earned and cash received by NZNA, do</p> <p>21 you see that?</p> <p>22 A I see that.</p> <p>23 Q Does the U.S., other states and</p> <p>24 local tax rates paid by NZNA affect the profits</p> <p>25 earned by NZNA?</p>
<p style="text-align: right;">Page 83</p> <p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 A Going back to me not knowing all</p> <p>3 the details of the service agreement, if they</p> <p>4 are doing services for Novozymes people in</p> <p>5 North America, Novozymes North America directly</p> <p>6 paid by the legal entity Novozymes North</p> <p>7 America, but indirectly we might be paying for</p> <p>8 the services that they provide to us.</p> <p>9 Q So let's say there is an</p> <p>10 employee at Novozymes North America that's</p> <p>11 doing something covered by the service</p> <p>12 agreement, is it the case that Novozymes North</p> <p>13 America would then charge Novozymes A/S and</p> <p>14 Novozymes A/S would strictly speaking pay</p> <p>15 Novozymes North America back for that?</p> <p>16 A I would assume that would be the</p> <p>17 transaction, yeah.</p> <p>18 Q Almost done with this document,</p> <p>19 sir.</p> <p>20 In fact, I am done with number</p> <p>21 3. You may give it back to the court reporter.</p> <p>22 MR. LANIER: Frankly, I think I</p> <p>23 am getting close to being done with my</p> <p>24 questions for Loft. Let me propose we</p> <p>25 take a five minute break, I will look at</p>	<p style="text-align: right;">Page 85</p> <p>1 BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2 A Ask again.</p> <p>3 Q Sure.</p> <p>4 Does a change in the tax rates</p> <p>5 applicable to Novozymes North America affect</p> <p>6 the profits earned by Novozymes North America?</p> <p>7 A Yeah.</p> <p>8 Q Your tax rate goes higher, you</p> <p>9 earn less profits, right?</p> <p>10 A Yes.</p> <p>11 Q Does Novozymes North America</p> <p>12 control the tax rates paid by Novozymes -- does</p> <p>13 Novozymes A/S control the tax rates paid by</p> <p>14 Novozymes North America?</p> <p>15 A No, we don't.</p> <p>16 Q Thank you, sir.</p> <p>17 We have taken a couple of breaks</p> <p>18 during the day, during any of those breaks has</p> <p>19 anything, have you thought of anything that you</p> <p>20 need to change or correct or modify about your</p> <p>21 answers to this point?</p> <p>22 A No.</p> <p>23 Q Sir, I thank you for your time.</p> <p>24 A You are welcome.</p> <p>25 MR. LANIER: I have no more</p>

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<p style="text-align: right;">Page 86</p> <p>1        BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2        questions.</p> <p>3        MR. SULLIVAN: I have no</p> <p>4        questions either.</p> <p>5        MR. LANIER: Thank you.</p> <p>6</p> <p>7        _____</p> <p>8        BENNY DALGAARD LOFT</p> <p>9        Subscribed and sworn</p> <p>10       to before me this _____</p> <p>11       day of _____, 2006.</p> <p>12</p> <p>13       _____</p> <p>14       Notary Public</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 88</p> <p>1        BENNY LOFT - HIGHLY CONFIDENTIAL</p> <p>2</p> <p>3        C E R T I F I C A T E</p> <p>4</p> <p>5        I, STEPHEN J. MOORE, a Shorthand</p> <p>6        Reporter and Notary Public of the State of New</p> <p>7        York, do hereby certify:</p> <p>8</p> <p>9        That, BENNY ALGAARD LOFT, the</p> <p>10       witness whose deposition is hereinbefore set</p> <p>11       forth was duly sworn, and that such deposition</p> <p>12       is a true record of the testimony given by such</p> <p>13       witness.</p> <p>14</p> <p>15       I further certify that I am not</p> <p>16       related to any of the parties to this action by</p> <p>17       blood or marriage; and that I am in no way</p> <p>18       interested in the outcome of this matter.</p> <p>19</p> <p>20</p> <p>21       _____</p> <p>22       Stephen J. Moore, RPR,</p> <p>23       CRR.</p> <p>24</p> <p>25</p>																																																																																																																																																																	
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